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## **Abstract**

The recently recognized phenomenon termed transnational organized crime, which makes headlines daily and is often on the top of governmental agendas, is in fact not a new phenomenon. Crime transcending borders is an ancient and well established occurrence, yet post 1980 there has been an undeniable surge in such activities. These recent surges can be attributed to new criminal opportunities, many of which are created by globalization. Globalization provides a convincing explanation for the current prevalence of criminal activities, particularly advanced fee fraud also referred to as '419 scams' or simply '419s'. Advanced fee fraud in its contemporary manifestation originated in Nigeria in the 1980s and today poses a considerable threat to developing and developed nations alike. The dissertation traces the development of advanced fee fraud in Nigeria. I attempt to uncover the factors inherent in Nigeria that can be interpreted as favorable or conducive to the perpetration of advanced fee fraud and whether this relatively new crime has roots in more traditional forms of organized crime. Furthermore, this dissertation attempts to analyze the implications of globalization on advanced fee fraud by illuminating certain aspects of globalization which serve to facilitate the modus operandi of groups involved in transnational fraud and money laundering. Neoliberal economic policies advocated by prominent international financial institutions, such as privatization and deregulation of the financial sector, are of particular interest and their effect on the opportunities and available methods of conducting transnational fraud are examined. The dissertation begins with an overview of transnational organized crime in the West African region and an introduction to advanced fee fraud. The subsequent chapters deal with the history of organized crime in Nigeria, the impact of globalization and new technology, and the deregulation of the international financial markets all of which appear to play significant roles in intensifying incidences of advanced fee fraud scams and related transnational frauds.

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University of Cape Town

### **List of Acronyms**

BCCI	The Bank of Credit and Commerce International
CBN	Central Bank of Nigeria
CIA	Central Intelligence Agency
ECOMOG	Economic Community of West African States Monitoring Group
ECOWAS	Economic Community of West African States
FATF	Financial Action Task Force
FBI	Federal Bureau of Investigation
IMF	International Monetary Fund
JFK	John F Kennedy Airport in New York
NCC	Nigerian Communications Commission
NCCT	Non-Cooperative Countries and Territories
NGOs	Non-Governmental Organizations
NNPC	Nigerian National Petroleum Company
PDP	Popular Democratic Party (Nigeria)
RUF	Revolutionary United Front (Sierra Leone)
SAPs	Structural Adjustment Programmes
UN	United Nations
UNDP	United Nations Development Programme
UNITA	National Union for the Total Independence of Angola
UNODC	United Nations Office on Drugs and Crime
WTO	World Trade Organization

## **1: An Inquiry into the Causality of Nigerian Organized Crime**

The West African state of Nigeria has in recent times been catapulted into the global arena and has earned itself a notorious reputation for organized crime activity, especially advanced fee fraud. Newspapers everyday carry headlines of Nigerian fraudsters duping oblivious victims into wiring them cash or perpetrators selling bank account details which are salvaged from the hard disks of donated computers. These stories grab attention for many reasons, the main factor being the pervasiveness of these scams and the threat of identity theft in industrialized nations at unprecedented levels. Many still are amazed that a nation historically involved in the traditional organized crimes, such as drug and human trafficking, is now at the forefront of a type of white collar crime. What is responsible for the unprecedented rates of transnational fraud originating from Nigeria and why Nigerian nationals in particular have become so adept at perpetrating fraudulent schemes are the principal issues this study will attempt to explain.

### **1.1 An overview of transnational organized crime in West Africa**

The West African region is comprised of seventeen states, of which Nigeria is both the most populated within the region and in the African continent<sup>1</sup> and is one of the few major economic powerhouses in Africa. The West African region's turbulent history is characterized by ancient feuding empires, followed by the slave trade and the scramble for African territories largely by Britain and France, and increasing bouts of independence after World War II. West Africa's postcolonial history is rich in civil wars, inter-state wars, military coups, and its contemporary history is no less chaotic: political

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<sup>1</sup> United Nations Statistics Division, *Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings*, (2006) [Online]. Available: <http://unstats.un.org/unsd/methods/m49/m49regin.htm#ftna> [2006, November 13].

and economic instability, extensive corruption, food crises, and exploitation of natural resources are all common practice today. All these factors are characteristic of the West African region in addition to widespread domestic criminal activity, of which Nigeria particularly has a well established history, and which inevitably serves as a precursor for transnational forms of crime<sup>2</sup>.

Recently, West Africa has been recognized with unusually high rates of transnational organized crime, particularly transnational fraud, drug trafficking, firearms trafficking, and human trafficking<sup>3</sup>. Nigeria is often seen as the leader and instigator of this regional trend with high rates of all four activities concentrated within its borders: The United Nations Office on Drugs and Crime (UNODC) quotes the United States Drug Enforcement Administration: “Nigeria and Nigerian drug traffickers dominate the African drug trade... [they] are well established in other parts of West Africa, Southeast Asia, and Europe and are rapidly entrenching themselves in such places as the former Communist bloc countries, South Africa, Russia, Brazil, New Zealand, and the Philippines”<sup>4</sup>. The Nigerian Criminal Enterprises are typically recognized as leaders in terms of financial fraud with worldwide losses from transnational fraud connected to

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<sup>2</sup> According to the Federal Research Division of the Library of Congress: “Domestic criminal activity is recognized as a key foundation for transnational crime, especially as the forces of globalization intensify”. See: The Library of Congress, *Nations hospitable to organized crime and terrorism*, (2003) [Online]. Available: <http://www.fas.org/irp/cia/product/frd1003.pdf> [2006, November 13]. 1.

<sup>3</sup> United Nations Office on Drugs and Crime (UNODC), *Transnational Organized Crime in the West African Region*, (2005) [Online]. Available: [http://www.unodc.org/pdf/transnational\\_crime\\_west-africa-05.pdf](http://www.unodc.org/pdf/transnational_crime_west-africa-05.pdf) [2006, November 13]. 20.

<sup>4</sup> The UNODC notes “a particularly flourishing trade in prostitutes exists from Nigeria.” See: UNODC, *Why Fighting Crime can Assist Development in Africa: Summary*, (2005) [Online]. Available: [http://www.unodc.org/pdf/African\\_report.pdf](http://www.unodc.org/pdf/African_report.pdf) [2006, November 13]. 33.



Nigeria estimated at \$4 billion<sup>5</sup>. The Federal Bureau of Investigation (FBI) also identifies Nigerian Organized Crime Networks as “the most significant of the African Criminal Enterprises” with operations in over 80 countries<sup>6</sup>. Charles Tive points out that “transnational financial crime is not peculiar to Nigeria; it is a general and global problem that emerged when the world metamorphosed from a ‘large world’ to a ‘global village’”, but advanced fee fraud in particular is an “...aspect of financial crime with a modus operandi peculiar to the Nigerian society”<sup>7</sup>. Why and how Nigeria has emerged as the key regional player in transnational organized crime activity are questions this study will seek to answer with a specific focus on why Nigeria is so conducive to financial crimes. No doubt the history of the state, which includes a violent history of military dictators, coups and counter-coups, civil war, the discovery of oil and resultant petrodollars, endemic corruption, and political instability despite the formation of a Democratic Republic modeled after the West, all synergistically serve to directly and indirectly create an environment that facilitates various forms of criminal activity, much of which is transnational in nature.

It is widely believed that much criminal activity occurs when opportunities for legitimate income making are scarce, thus resulting in the formation of a booming informal

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<sup>5</sup> Federal Bureau of Investigation (FBI), *Investigative programs organized crime: African criminal enterprises*, (no date) [Online]. Available: <http://www.fbi.gov/hq/cid/orgerime/aace/africancrim.htm> [2006, November 13].

<sup>6</sup> Ibid.

<sup>7</sup> Charles, Tive, *419 Scam: Exploits of the Nigerian Con Man* (Lagos: Chicha Favours, 2002), 1.

economy<sup>8</sup>. Furthermore the economic implications of globalization, particularly the liberalization of the market sans adequate oversight and regulation, which are typically pushed by Structural Adjustment Programmes and have been incorporated in the Nigerian economy by the Obasanjo government and earlier administrations, confer various benefits on transnational criminal groups; these include easier access into previously constrained areas, opportunities to liaise with other criminal networks, and the ability to assume the role and social responsibilities of the government by offering the ordinary public income-seeking avenues. And the technological advancements associated with the processes of globalization, especially those in the realm of the global financial industry, allow organized crime groups to conduct their activities with increased efficiency, speed, and anonymity. This particularly serves to enhance the feasibility of transnational fraud activity; for example, the internet served to revolutionize advanced fee fraud in Nigeria by allowing scammers to replace the postal service and the fax machine with email, thus allowing fraudsters access to uncountable numbers of people at a fraction of the cost. The FBI sums up the prospects for criminal activity provided by globalization in Africa:

The ease of international travel, expanded world trade, and financial transactions that cross national borders have enabled African Criminal Enterprises to expand their roles from more traditional local and regional criminal groups to that of targeting international victims and developing criminal networks within countries and regions of the world with greater prosperity. The political, social, and economic conditions in African countries such as Nigeria, Ghana, and Liberia have contributed significantly to some criminal ethnic groups from these countries developing criminal enterprises worldwide...<sup>9</sup>

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<sup>8</sup> Daniel Bach believes that "Today, in many countries the so-called parallel or illegal cross-border transactions contribute to a vital diversification of urban income sources and exert a buffer function when salaries undergo a sharp decline...the parallel circuits supply consumers with food, fuel and manufactured goods while creating earning opportunities..." See: Daniel Bach, "New Regionalism as an Alias: Regionalization through Trans-State Networks", in J. Andrew Grant and Fredrik Soderbaum, eds., *The New Regionalism in Africa*. (Burlington: Ashgate, 2003), 28.

<sup>9</sup> FBI.

Nigeria has become notoriously synonymous with advanced fee fraud, commonly referred to as 419 scams and named after the section of the Nigerian Criminal Code which prohibits the practice<sup>10</sup>. The terms 'advanced fee fraud' and '419s' are often used interchangeably in addition to other labels to describe the schemes such as 'the Nigerian Connection'. These scams are typically conducted via the internet in the form of emotional and official emails that encourage the recipient to release funds to pay for various fees incurred for a previously promised larger sum. They range from simple spam messages to intricate and extensive schemes all intended to dupe the receiver into paying in advance for a promised profit or service that is never delivered.

## 1.2 How advanced fee fraud/419 scams work

In a nutshell, transnational organized crimes are "Offenses whose inception, prevention, and/or direct effect or indirect effects involve more than one country"<sup>11</sup>. However a more extensive definition classifies an offense as transnational if:

- (a) it is committed in more than one State; (b) it is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State; (c) it is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or (d) it is committed in one State but has substantial effects in another State<sup>12</sup>.

Advanced fee fraud or 419 scams are a type of transnational organized crime. More specifically they are defined as "attempts to obtain pre-payment for goods or services that

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<sup>10</sup> Femi Ajayi, *The politics of '419': Internationalizing Nigerian criminal code, Chapter 38 Section '419'*, (2002) [Online] Available: <http://nigeriaworld.com/columnist/ajayi/032102.html> [2006, November 13].

<sup>11</sup> Commission on Behavioral and Social Sciences and Education (CBASSE), *Transnational organized crime: Summary of a workshop*, (1999) [Online]. Available: <http://darwin.nap.edu/books/0309065755/html/8.html> [2006, October 23].

<sup>12</sup> United Nations Office on Drugs and Crime (UNODC), *Trafficking in persons: Global patterns*, (2006) [Online]. Available: [http://www.unodc.org/pdf/traffickinginpersons\\_report\\_2006ver2.pdf](http://www.unodc.org/pdf/traffickinginpersons_report_2006ver2.pdf) [2006, November 13]. 7.

do not actually exist or which the proposer does not actually intend to deliver”<sup>13</sup>. According to Interpol, the classic course of action for a Nigerian 419 scam begins with a letter, typically in the form of an email, by an unknown sender promising an especially lucrative business deal. The bulk of the 419 letters share the same format and include common features: The sender will often state that he or she is a relative or a trusted friend of distinguished businessmen or a high ranking member of government who is now deceased due to some extraordinary circumstance. Before their death, however, the person had deposited a substantial sum of money, typically ranging from \$800,000 to \$100,000,000, into a Nigerian bank account. The sender claims to have legal rights to the account and needs help in transferring the money into a foreign bank account. The recipient of the scam is promised between 15-50% of the cash for their assistance in the transfer<sup>14</sup>. Another classic mode of operation includes a direct request by an alleged prominent member of the government to transfer “over-invoiced” funds into the recipient’s personal account. Bank account details, blank company letterheads, and other documents are requested in order to conduct the transfer. The scammers also send official looking forged documents typically bearing the names of the Central Bank of Nigeria (CBN) and the Nigerian National Petroleum Company (NNPC) intended to lend credibility to the fraudsters and mitigate feelings of suspicion by the victim. The crucial element of the scam, however, is the various handling fee requests or what is referred to as the ‘advance fee(s)’ and this scenario is played out countless times during the course of the scam; the victim is assured that his cut of the profit is about to be released to him but suddenly an unforeseen obstacle appears, keeping the victim from his promised cash

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<sup>13</sup> UNODC, *Transnational Organized Crime in the West African Region*, 24.

<sup>14</sup> Interpol, *Financial fraud*, (2005) [Online]. Available: <http://www.interpol.int/Public/FinancialCrime/FinancialFraud/NigerianLetter.asp> [2006, November 13].

payout. The apparent obstacles range from bank managers and government officials that need bribing to various fictitious taxes that need paying before the money can be transferred. The victim, considering the substantial sum promised to him, is easily duped into paying these fees in advance inevitably losing significant accounts of money in the process. In some cases, the victim is urged to travel to Nigeria or a bordering country to complete the transaction and is assured that a visa is unnecessary or that one has been arranged. In fact, there exists no visa and entering Nigeria without proper documentation is considered a serious crime warranting imprisonment; the fraudsters may use this in addition to threats of physical violence to induce the victim into releasing even more money once inside the country<sup>15</sup>.

There also exist slight variations of these 419 scams typically by fax or post that targeted businesses throughout the 1990's and were used before many groups switched to mass and indiscriminate emailing. These variations included black currency schemes, contract fraud, extortion, real estate fraud, wills apparently containing bequeathments, in addition to selling oil by the barrel at below market prices or over invoicing of oil<sup>16</sup>. The common thread between these schemes, besides undeniable creativity, is that victims end up being manipulated into paying a fee, or in most cases many fees, in advance with the expectation that they will eventually receive some product or service, hence the term advanced fee fraud.

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<sup>15</sup> 419 eater, *What is the 419 scam?*, (no date) [Online]. Available: <http://www.419eater.com/html/419faq.htm> [2006, November 13].

<sup>16</sup> 419 Coalition, Nigerian scam: *Sample 419 letters*, (no date) [Online] Available: <http://home.rica.net/alphae/419coal/samplesmain.htm> [2006, November 13].

An interesting and slightly divergent manifestation of the Nigerian 419 scams is the Black Currency schemes. These scams were initially limited to duping local Nigerians and were referred to as ‘wash-wash’ and were perpetrated by con men known as ‘guy men’, which was the local term for perpetrators of all types of advanced fee fraud<sup>17</sup>. Today these schemes are no longer confined within the borders of Nigeria but have become transnational in nature. Contemporary black currency schemes classically involve large sums of allegedly genuine money, typically dollars that have been colored black chemically in order to smuggle the notes out of the country without them being detected. The victim is told that the notes can be restored to their original condition with a special cleaning agent that costs anywhere between \$10,000 to \$500,000. The victim is typically invited to Nigeria to view the notes and for his/her assistance in covering the cleaning agent costs, is offered a significant percentage of the restored cash. To ease the mind of skeptical victims, legitimate notes are often strategically placed among the bundles of fraudulent notes which are washed in front of the victim who is then encouraged to take them to his/her bank for verification<sup>18</sup>. Once convinced, the payment is made for the cleaning agent and the victim is subsequently left with suitcases full of worthless paper<sup>19</sup>.

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<sup>17</sup> Tive, 10.

<sup>18</sup> Ibid, 79.

<sup>19</sup> Interpol, *Financial fraud*. Furthermore “These schemes are diverse and target not only individuals but businesses and government offices as well. Insurance fraud involving automobile accidents, healthcare billing scams, and life insurance schemes are tremendously profitable for Nigerian Criminal Enterprises. Bank, check, and credit card fraud schemes are also very lucrative. Advance Fee schemes, also known as 4-1-9 letters are worldwide problems, especially with the advent of Internet e-mail systems. Document fraud, to develop false identities, contributes to the difficulty of law enforcement in all countries to stem the flow of Nigerian Criminal Enterprise activities.” See FBI.

Life insurance scams are a lesser known variation of the typical Nigerian advanced fee fraud but are hugely popular among fraudsters. In these scams, the fraudster insures a fictitious person through reputable insurance companies typically in Europe or America. Soon after the person has been successfully insured, the fraudster claims that the person has died suddenly in an accident and supplies the insurance company with fraudulent documents such as death certificates and coroners reports to validate the claim, inevitably receiving payment for the fictitious death of a fictitious person<sup>20</sup>.

Creativity and foresight are undeniable attributes of the successful Nigerian fraudster. Nigerian documents are typically easy to forge or replicate because victims from industrialized countries are not familiar with what the official documents should look like and are easily duped into believing bogus letterheads and seals. These fraudsters will even go so far as to tamper with their surroundings to convince visiting victims of the legitimacy of their schemes. Charles Tive, a former Nigerian police officer, narrates accounts in which 419 men not only assumed the identity of prominent government officials but disguised their offices in rural Nigerian towns as official buildings successfully convincing victims that they were indeed involved in official government business<sup>21</sup>.

Despite the often crude and implausible nature of some Nigerian advanced fee scams, victims repeatedly fall prey to the lucrative promises and the largest reported loss for a

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<sup>20</sup> Tive, 2.

<sup>21</sup> Ibid, 129.

single 419 scam to date is a quarter of a billion dollars<sup>22</sup>. And victims of these scams are not limited to your average gullible citizens, but come from a vast range of backgrounds; former United States congressman from Iowa Edward Mezvinsky as well as other figures such as prominent American priests and psychotherapists have all been lured and inevitably taken by 419 con men<sup>23</sup>. A major reason why Nigerian fraudsters are able to find victims interested in their proposals is often attributed to the greed of victims on the other end to make a quick and easy fortune, despite knowing the proposition is outside the bounds of legality. Operationally speaking, the 419 scams have been so successful due in part to the huge number of solicitations they send out: On a daily basis, a single 419 enterprise on average sends out fifty 419 proposals to various addresses typically in Europe, America, Asia, and South Africa. In Lagos alone, there are 200 such enterprises resulting in approximately 10,000 advanced fee fraud proposals a day<sup>24</sup>. The origins of these scams are traced to the period between the late 1970's and the 1980's, or the time of the Nigerian Oil Boom, when imports and access to world markets for Nigerians were unprecedented. Some Nigerians in government began to employ the practice of over-invoicing which is believed to be the predecessor to the infamous 419 scams of today<sup>25</sup>. Ultrascan Advanced Global Investigations also trace Nigerian advanced fee fraud to the 1970's when the country had recently discovered oil and the main targets of the initial

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<sup>22</sup> UNODC, *Transnational Organized Crime in the West African Region*, 26.

<sup>23</sup> Mitchell Zuckoff, *Annals of crime: The perfect Mark*, (2006) [Online]. Available: [http://www.newyorker.com/printables/fact/060515fa\\_fact](http://www.newyorker.com/printables/fact/060515fa_fact) [2006, November 13].

<sup>24</sup> Tive, 106.

<sup>25</sup> "...through collusion between government officials and foreign businesses, imported goods were over-invoiced, resulting in the transfer of huge resources from the country without the supply of goods and services. The West became used to money being stolen into foreign countries with the collusion of foreigners. This was the precursor to the current financial scam and the reasons why western conspirators actually believed the financial scam perpetrators....The process of liberalization also reduced the foreign exchange controls and led to the deregulation of financial and banking services, which may have contributed to the crime." See: UNODC, *Transnational Organized Crime in the West African Region*, 24.



scams were businesses in Europe and Africa<sup>26</sup>. Interpol contends that 419 scams, by letter, fax, and/or email, can be traced to pre-1989<sup>27</sup>. Tive explains that advanced fee fraud was a local phenomenon in the 1970's perpetrated by unsophisticated 'guy men' that later progressed into sophisticated enterprises with the advent of technology and skilled persons which went global in the 1980's<sup>28</sup>.

### 1.3 How globalization factors in

Globalization is typically viewed as a major culprit facilitating various forms of transnational organized crime activity and is often believed to be criminogenic due to characteristics of the phenomenon that circuitously serve to facilitate and intensify incidences of criminal activity across borders. Technological advancements are frequently the chief suspect and attributed to both increased efficiency and anonymity in which crimes can now be conducted in our globalized era. These advancements are also responsible for creating new genres of transnational organized crime: Interpol explains that recent advances have allowed for "the emergence of new types of crime as well as the commission of traditional crimes by means of new technologies"<sup>29</sup>: for example organ and body part trafficking which were impossible before the advent of refrigerated cargo facilities and other necessary equipment. Or in the case of transnational fraud, the internet and online banking services have revolutionized the efficiency and ease of processing fraudulent transactions. Population booms and record-setting levels of

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<sup>26</sup> Ultrascan Advanced Global Investigations, *419 unit AFF statistics and estimates*, (no date) [Online]. Available: [http://www.ultrascan.nl/html/419\\_statistics.html](http://www.ultrascan.nl/html/419_statistics.html) [2006, November 13].

<sup>27</sup> Interpol, *Financial fraud*.

<sup>28</sup> Tive, 11.

<sup>29</sup> Interpol, *Convention on cyber crime: Explanatory report*, (2001) [Online]. Available: <http://www.interpol.int/Public/TechnologyCrime/Conferences/6thIntConf/ExplanatoryReport.pdf>. [2006, November 13]. 1.

immigration, via increased social disorganization, are often cited as another factor that adept transnational criminal organizations eagerly take advantage of, especially human trafficking cartels. War, poverty, and unemployment are further mentioned for their criminogenic nature, which ranges from creating a pool of vulnerable victims traffickers and smugglers are quick to utilize for financial benefits as well as resulting in rampant corruption and desperation. Even certain market conditions associated with the globalization processes are believed to encourage and provide opportunities for transnational criminal groups to successfully conduct their operations. This study will center around various Nigerian social, political, and economic conditions which are part and parcel of globalization in addition to focusing on the history of the state and how these factors have synergistically resulted in an environment ripe for transnational fraud.

Globalization has numerous definitions but is typically classified as “...the closer integration of the countries and peoples of the world which has been brought about by the enormous reduction of costs of transportation and communication, and the breaking down of artificial borders to the flows of goods, services, capital, knowledge, and (to a lesser extent) people across borders”<sup>30</sup>. Furthermore, globalization is often depicted as an intangible term with no consensual or unanimous starting point. Some critics suggest globalization is an ancient phenomenon. However, for the purpose of the study, the globalization I refer to encompasses the changes in society, economy, and governments all over the world that occurred post 1980. Similarly, cross-border organized crime has existed prior to 1980 and “such crime has a lineage that scholars have traced back to the

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<sup>30</sup> Joseph Stiglitz, *Globalization and its Discontents*, (London: Penguin Books, 2002), 9.

times of pirates on the high seas and the African slave trade”<sup>31</sup>. Nigeria especially has a significant history of organized crime activity which many scholars attribute to various social disorganization factors, such as the upheaval caused by wars and corruption on an implausible scale. Thus international organized crime has existed in various manifestations prior to the phenomenon of globalization. But the processes of globalization and its implications have had a major impact on the pervasiveness and profitability for crime beyond the borders of a single country<sup>32</sup>. Globalization has moved organized crime that was generally confined within the borders of a single state and occasionally transnational and catapulted now stateless actors into an unrestrained global playing field. It has redefined the very structure of these groups and allowed them to evolve from ethnic linear clusters into highly capable and powerful networks that easily elude law enforcement<sup>33</sup>. It has intensified not only the numerical incidences of transnational organized crime, but has created new categories of crime ready for exploitation,<sup>34</sup> including advanced fee fraud. But perhaps most ominously, globalization means transnational organized crime’s implications are no longer isolated and contained within tight geographical boundaries but now constitute affronts to state sovereignty: “Global criminal activities are *transforming the international system*, upending the rules,

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<sup>31</sup> Louise Shelley, John Picarelli, and Chris Corpora, “Global Crime Inc”, in Maryann Cusimano Love, ed., *Beyond Sovereignty: Issues for a Global Agenda*. (Thomson: Wadsworth, 2002), 144.

<sup>32</sup> For example, “...criminal activities surged and became global in the 1990s”. See: Moises Naim, *Illicit: How Smugglers, Traffickers and Copycats are Hijacking the Global Economy*, (New York: Random House, 2005), 5.

<sup>33</sup> Naim explains that since the 1990s transnational organized crime groups have undergone “...a great mutation...All have moved away from fixed hierarchies and toward decentralized networks; away from controlling leaders and toward multiple, loosely linked, dispersed agents and cells; away from rigid lines of control and exchange and toward constantly shifting transactions as opportunities dictate. See: Ibid, 7.

<sup>34</sup> For instance: Organ trafficking and chlorofluorocarbon (CFC) trafficking.

creating new players, and reconfiguring power in international politics and economics”<sup>35</sup>. Sweeping technological changes, increased migration, and porous borders are just a few of the byproducts of globalization that have suited the workings of organized crime networks and promoted its transnational nature. Louise I. Shelley, Director of Transnational Crime and Corruption Center at American University explains:

Transnational crime will be a defining issue of the 21st century for policymakers - as defining as the Cold War was for the 20th century and colonialism was for the 19th. Terrorists and transnational crime groups will proliferate because these crime groups are major beneficiaries of globalization. They take advantage of increased travel, trade, rapid money movements, telecommunications and computer links, and are well positioned for growth<sup>36</sup>.

#### 1.4 Set-up of West African and Nigerian criminal networks

Globalization has entailed a restructuring of the classical criminal group or organization. Historically, groups have had a clearly demarcated and hierarchal order and were often established along ethnic lines. In these types of organized crime groups, roles and activities were well defined and static and ‘leaders,’ ‘kingpins,’ and ‘heads’ were easily discernible. Thus, the configurations were referred to as ‘cartels,’ ‘mafias,’ or ‘syndicates’. However, due particularly to the globalization processes and in response to the primacy placed on markets, the structuring has morphed into fluid networks and these groups now mimic the structure of legitimate businesses<sup>37</sup>. The benefits of this transformation is two-fold: the networks become better positioned to take advantage of the globalized economy in terms of moving into new market niches and exploiting supply

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<sup>35</sup> Naim, 5. Furthermore: “Rogue states, terrorist networks, and transnational organized crime enter into alliances, creating asymmetric military threats that exploit the globalization of democracy and free market capitalism”. See: Shelley, Picarelli, and Corpora, 158.

<sup>36</sup> The Transnational Crime and Corruption Center at American University, *Who we are*, (2004) [Online]. Available: <http://www.american.edu/tracc/about/whoweare.html> [2006, November 13].

<sup>37</sup> The UNODC explains: “The traditional hierarchical forms of organized crime groups have diminished; replaced with loose networks who work together in order to exploit new market opportunities”. UNODC, *Organized crime*, (2006) [Online]. Available: [http://www.unodc.org/unodc/en/organized\\_crime.html](http://www.unodc.org/unodc/en/organized_crime.html) [2006, November 13].

and demand in addition to thwarting threats by law-enforcement<sup>38</sup>. This is especially true for African organized crime groups, which are referred to as criminal *enterprises*, the most notorious of which is the Nigerian Criminal Enterprise. These new labels depict the business like configuration in which the networks now prefer to operate<sup>39</sup>.

Nigerian Networks involved in the traditional organized crimes are typically small, with a core membership of three to five persons, and their mode of operation is often described as a master-apprentice configuration. Successful entrepreneurs, referred to as masters, recruit apprentices for specific and short-term, often 'one-time' purposes as opposed to on a permanent basis. The identity of the entrepreneur, or the instigator of the network, remains unknown and irrelevant to the short-term apprentices in the traditional organized crimes. This has obvious benefits for the workings of the criminal network and frustrates law-enforcement efforts to track down the main players in the network in the event that these short-term apprentices are caught. Furthermore, long term specialization is believed to be rare, and many entrepreneurs run both licit and illicit enterprises as well as maintaining a fluid network that is able to involve itself in different types of organized crime. Diversifying of criminal activity, or being involved in more than one crime category, is believed to be one of the side-effects globalization has had on the arrangement of criminal networks<sup>40</sup>. In the case of Nigeria, profits from advanced fee

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<sup>38</sup> Phil Williams, "Transnational Criminal Networks", in John Arquilla and David F. Ronfeldt, eds., *Networks and Netwars: The Future of Terror, Crime, and Militancy* (Rand Corporation: 2002), 61-2.

<sup>39</sup> For example, Colombian narcotics trafficking groups "...have followed standard business practices for market and product diversification". And other criminal groups are increasingly employing financial specialists to assist in the money laundering process. See: Phil Williams, *Organized crime and cyber crime: Implications for business*, (2002) [Online]. Available: <http://www.cert.org/archive/pdf/cybercrime-business.pdf>. [2006, November 13]. 2.

<sup>40</sup> UNODC, *Transnational Organized Crime in the West African Region*, 15.

fraud are believed to provide funds for involvement in other organized crimes by fraudsters<sup>41</sup>.

The mode of operation for groups involved in transnational fraud through technology is similar in initial size and in recruiting technique to the more traditional crimes. However, members are thought to be more advanced in that a relatively high standard of education is needed as well as a familiarity with computers and other forms of technology in addition to technical skills such as document forgery. There are two contemporary modes of operation for these groups: an experienced operator with access to the necessary resources, mainly the internet, recruits select and adept apprentices or an operator first entraps a victim via the internet and then employs apprentices as needed<sup>42</sup>. The numbers of apprentices can become quite substantial once the scheme is underway and the victim is entrapped: 'front-end' men are employed or those who correspond by telephone or even face-to-face with victims, in addition to more 'shadow' apprentices whose purposes include setting up fraudulent bank accounts and obtaining faux business documentation, as well as trusted apprentices who are signatories on the bank accounts which are used to collect the advanced fees. Interestingly, the entrepreneur or instigating operator, often legitimate businessmen with substantial assets overseas, typically resists becoming directly involved but funds the scams as well as launders the resulting profits<sup>43</sup>.

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<sup>41</sup> Tive, 121.

<sup>42</sup> UNODC, *Transnational Organized Crime in the West African Region*, 15.

<sup>43</sup> Ultrascan Advanced Global Investigations, *419 advance fee fraud*, (no date) [Online]. Available: [http://www.ultrascan.nl/html/419\\_advance\\_fee\\_fraud.html](http://www.ultrascan.nl/html/419_advance_fee_fraud.html) [2006, November 13].

### 1.5 International implications of advanced fee fraud

Advanced fee fraud has become yet another example of how criminal groups have exploited new technology, namely the internet for their own purposes, and is a classic example of the evolution of crime. Other manifestations of cyber-crime beyond fraud include money laundering, theft, intellectual property violations, and pedophilia as well as various other illicit activities that need only the internet to thrive. With the rise of technology and other means of communication, criminal networks have gained a considerable degree of sophistication as well as a range of opportunities not available before. And the borderless world of the net, specifically because it is riddled with jurisdictional voids, provides a certain degree of protection and insulation as well as considerable anonymity for organized crime groups to conduct their activities. And Africa is no exception to the trend, as can be seen in the unprecedented levels of transnational fraud originating from the continent.

Today Nigerian 419 scams have become rampant and are especially prevalent in industrialized nations. In 1998, the United States passed the *Nigerian Advance Fee Fraud Prevention Act*. Section 2.15 of the house bill stated that the Nigerian Government's lack of regulation or enforcement of laws prohibiting the practice was equivalent to the government playing a significant role of accomplice in the fraud. The proposed course of action by the US Government included informing and educating the public, coordinating governmental agencies to action, working at the international level to prevent and prosecute transnational fraudsters, among additional measures including

possible “imposition of economic and other sanctions on the Government of Nigeria”<sup>44</sup>. In more recent times, the magnitude of the problem has not abated and in 2002 the United States Department of Justice acquired a court mandate to open every item of mail originating from Nigeria and passing through JFK airport in New York; 70% of which was determined to be propositions for advanced fee fraud schemes. Australian Post, between August and November of 1998, confiscated 4.5 tons of advance fee correspondence which was equivalent to 1.8 million items<sup>45</sup>. What is responsible for the frequency of advanced fee fraud, whether it has roots in traditional Nigerian organized crime or whether it is can be better explained via recent developments, namely globalization, are all questions this study will seek to address.

The next chapter provides an overview of the history of organized crime in West Africa, with a specific focus on Nigeria. The chapter seeks to identify causal factors of transnational crime in light of the political, economic, and social environment of Nigeria. Political instability, corruption, and the oil boom in addition to the facilitory relationship between regionalization initiatives and crime that is transnational in nature is highlighted. The subsequent chapters deal with other processes that are believed to be relevant to transnational fraud including globalization, new technology, and neo-liberal economic reforms such as deregulation and privatization. The concluding chapter attempts to outline specific factors and illuminate certain processes that have made Nigeria so conducive to transnational fraud in particular and transnational organized crime in general.

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<sup>44</sup> Tive, 153.

<sup>45</sup> Ultrascan Advanced Global Investigations, 419 unit AFF statistics and estimates.



## 2: A History of Organized Crime in Nigeria

The idea that Nigeria has a modus operandi peculiar to transnational fraud, as suggested by Charles Tive, is the rationale behind an extensive analysis of Nigerian society. This chapter will assess the implications of various socio-economic phenomena, ranging from the Nigerian oil boom to more contemporary efforts at regional integration to explain the pervasiveness of transnational fraud. Additionally, many factors are thought to be related to the current state of organized crime within Nigeria's borders, including the tumultuous history of the West African nation in which many Nigerians turned to criminal activity as a means of survival. Nigeria's history includes colonialism, followed by ethnic tensions soon after the crude demarcation of the country's borders, followed by independence, dictatorships, and military coups<sup>46</sup>. The oil boom of the 1970's resulted in Nigeria becoming a magnet for immigrants from neighboring countries, some of whom were soon expelled from the country<sup>47</sup>. This was followed by armed conflict in the region which allowed organized crime to further flourish<sup>48</sup>. Globalization and the spread of democracy in the region both benefited and resulted in adverse consequences for Nigeria; specifically the premature liberalization of the economy and the deregulation of the financial industry have recently been tied to increases in transnational organized crime within the region<sup>49</sup>. Currently, a lack of sufficient income-earning opportunities and poverty characterize large sectors of the Nigerian population, and these two factors are

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<sup>46</sup> Nigeria has undergone six violent changes of government "...in addition to a 30-month-long civil war in which an estimated one million people were killed, maimed, or displaced." See: Adebayo Adedeji, Ed. *Comprehending and Mastering African Conflicts* (London: Zed Books, 1999), 4.

<sup>47</sup> Ghanaians were expelled from Nigeria in 1981 and 1983. See: UNODC, *Transnational Organized Crime in the West African Region*, 6.

<sup>48</sup> ECOWAS peace-keeping troops are believed to have been involved in illicit activity, specifically narcotics trafficking. See: Eboe Hutchful, *The ECOMOG experience with peacekeeping in Africa*, (1999) [Online]. Available: <http://www.iss.co.za/Pubs/Monographs/No36/ECOMOG.html> [2006, November 13].

<sup>49</sup> UNODC, *Transnational Organized Crime in the West African Region*, 24.

ancient and well-established facilitators of crime. Thus, Nigeria's history serves as an important backdrop to understanding contemporary forms of transnational organized crime within the country as well as the evolution of relatively new, less traditional crimes, such as advanced fee fraud. Furthermore, a study of organized crime in Nigeria would not be complete without an ample focus on corruption within the state.

## **2.1 Nigeria: demographics and trends**

Nigeria is a sizeable country located between Benin and Cameroon, to the West and East respectively, and bordering Chad and Niger to the North. To the South, Nigeria's 853km of coastline borders the Gulf of Guinea, and situated on the lower south-west corner of the coastline is Lagos, the bustling commercial city and former capital of the country. Lagos has earned itself a notorious reputation for various transnational organized crime activities, and is currently a hub and distribution center for various drugs<sup>50</sup> and most Nigerian organized crime groups are believed to be centered in this well-connected port city. Furthermore, Nigeria's extensive land and sea borders are difficult to monitor and remain largely unpatrolled. The centrally located capital and planned city of Abuja is less notorious than Lagos in terms of being home to illicit activity and is the fastest growing city on the continent. The country has a population of approximately 182 million, the largest in Africa, with a median age of 18.7 and a population growth rate of 2.38%. AIDS affects 5.4% of the adult population and there is serious risk of other diseases such as meningitis, typhoid fever, Lassa fever, and malaria among others resulting in an average life-expectancy of 47.08 years. A majority of the population, 68%, are literate.

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<sup>50</sup> Direct flights from Lagos to the United States, for example, were believed to be suspended due to Lagos' heavy involvement in heroin trafficking. See: Jean-Francois Bayart, Stephen Ellis, and Beatrice Hibou, *The Criminalization of the State in Africa* (Oxford: James Currey, 1999), 10.

Nigeria has a diverse range of ethnic groups, totaling some 250 different groups, of which the Hausa and Fulani (29%), Yoruba (21%), and Igbo/Ibo (18%) are the largest. Furthermore, the majority of the population is Muslim (50%), followed by Christians (40%), and there is a sizeable population of indigenous believers (10%)<sup>51</sup>. Economically speaking, Nigeria has the second largest economy in sub-Saharan Africa<sup>52</sup>, and the Ibo are the market-dominant clan often referred to as the “Jews of Nigeria” in addition to being “...famous world over for being an unusually driven and enterprising ‘trader’ minority”<sup>53</sup>. Similarly the Lebanese in West Africa, along with their access to the global marketplace, dominate the profitable import-export businesses throughout West African region<sup>54</sup>.

## 2.2 Domestic facilitators of transnational organized crime

At first glance, Nigeria does not appear to be drastically different than any other developing African country; it is characterized by diverse ethnic groups, a turbulent history post-colonialism, civil unrest, and an inadequate standard of living. Logically these factors may potentially increase the lucrativeness of criminal activity but it does not explain why Nigeria has emerged as one of the most corrupt and criminogenic states in the world. The Federal Research Division of the Library of Congress outlines numerous conditions that may make a nation-state a breeding ground for transnational organized crime activity ranging from terrorism to fraud:

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<sup>51</sup> CIA, *The world factbook-Nigeria*, (2006) [Online]. Available:

<https://www.cia.gov/cia/publications/factbook/geos/ni.html> [2006, November 13].

<sup>52</sup> SKB Asante. *Regionalism and Africa's Development: Expectations, reality and challenges* (London: Macmillan, 1997), 30.

<sup>53</sup> Chua attributes the Ibo success in trading various commodities to the fact that “...they have the contacts, know the terrain, and can do it most cheaply.” See: Amy Chua. *World on Fire* (London: Arrow, 2003), 108-110.

<sup>54</sup> Ibid. 109.

The main domestic elements making a nation “hospitable” to transnational crime and terrorism are official corruption, incomplete or weak legislation, poor enforcement of existing laws, non-transparent financial institutions, unfavorable economic conditions, lack of respect for the rule of law in society, and poorly guarded national borders. In some cases, several of those conditions arise together from a lack of political will to establish the rule of law. In turn, such a lack can derive from weak national institutions or from high-level corruption. A failing national economy often is an influential background factor that increases domestic and transnational criminal activity in a country. Such purely domestic factors often are exacerbated by a nation’s geographic location (along a key narcotics trafficking route or in a region where arms trafficking is prolific, for example), or the influence of regional geopolitical issues such as a long-standing territorial dispute<sup>55</sup>.

Interestingly, Nigeria encompasses almost all of these domestic characteristics. Thus the following paragraphs will focus on the outlined issues highlighted in the above analysis and will specifically focus on their application to Nigeria and their role in Nigerian transnational organized crime.

#### *An ineffective rule of law*

Nigeria is a fairly new state, which only gained independence in 1960 from Great Britain, and thus does not have a well-established legal system. It characterizes itself as a federal republic whose legal system is based on English common law yet twelve of Nigeria’s northern states are subject to Islamic Shariah<sup>56</sup>. These dual systems have a major effect on the equal application of the law and are likely to contribute to a disregard for the rule of law. This explanation is somewhat similar to Biko Agozino’s post-colonial theory which views the implications of imperialism as largely responsible for the contemporary state of crime in the West African region and that current crime rates are best explained through the adversarial relationships between ‘the masses’ and the ‘neo-colonial

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<sup>55</sup> Library of Congress, *Nations Hospitable to Organized Crime and Terrorism*, 1.

<sup>56</sup> CIA, *The world factbook-Nigeria*.

regimes'. According to Agozino, before the advent of colonialism, West Africa was characterized by peaceful and orderly societies whose sophisticated social control mechanisms favored restitution and provided just compensation for victims while adequately punishing offenders. Only after the imposition of the transatlantic slave trade was West African society severely undermined and barbaric violence on unprecedented scales introduced by the European Colonial powers. The European powers also brought with them a retributive model of social control which replaced the traditional well-developed restitution-oriented model. The imposition of this unfamiliar punitive ideology is best exemplified in the growth of Nigerian prison facilities which grew exponentially with the advent of colonialism. Previously, penitentiaries and prisons were alien to the West African region and there were 0 institutions of incarceration in the region prior to 1800. By 1990, there were approximately 131 prisons in Nigeria alone, including the 83 which were built between 1900 and 1950 during the scramble for Africa<sup>57</sup>. Thus colonialist legacies have severe implications in the creation of social control mechanisms in the Nigerian state. Judging from the criminogenic state of Nigeria's contemporary society, these imposed mechanisms have failed to contribute to the maintenance of an orderly social structure. In fact, it is widely believed that the criminal justice systems throughout the West African region are severely inadequate and lacking in resources<sup>58</sup>.

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<sup>57</sup> Biko Agozino, "Crime, criminology and post-colonial theory: Criminological reflections on West Africa", in James Sheptycki and Ali Wardak, eds., *Transnational and Comparative Criminology*. (London: Glasshouse Press, 2005), 117-127.

<sup>58</sup> UNODC, *Transnational Organized Crime in the West African Region*, 4.

Illicit activity is not a new development and throughout history it has often been used as a coping-mechanism when legitimate forms of income making opportunities are unavailable or nonexistent. At other times, despite the availability of opportunities, potential profits justify in utilitarian terms engagement in illicit activity. This is essentially “Neoclassical economics applied to illegal transactions...” where “criminals as rational agents [make] economic choices when illegality heightens profit opportunities”<sup>59</sup>. This is similar to Alan Smart’s ‘extensionist hypothesis’ which contends “illegal markets are nothing more than normal markets in which entrepreneurs have been enticed by demand to overstep the bounds of the law in search of higher profits”<sup>60</sup>. However, most theories of crime which aim to explain participation in illicit activity have been developed through a Western lens and appear to be applicable mainly in light of industrialized nations with strong capitalist institutions. Criminological theories that apply to the rest of the world are scarce; but perhaps a pertinent one would be a theory that implicates the state as having a symbiotic relationship with illegal practices<sup>61</sup>. In terms of legal pluralism, or the coexistence of multiple legal norms or systems, on former colonial states, the various legal systems may permit some to derive benefit from the new rules or procedures<sup>62</sup>. Furthermore, peripheral regions may give rise to ‘military entrepreneurs’ while “inside effective states, however, such rival political domains are quashed”<sup>63</sup>. Thus, the role of the Nigerian state and its relationship with

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<sup>59</sup> Josiah McC. Heyman, Ed. *States and Illegal Practices*. (Oxford: Berg, 1999), 4.

<sup>60</sup> Ibid, 4.

<sup>61</sup> McC. Heyman explains that state law and the evasion of state law go hand in hand; “certainly the state does not always conspire with crime, but it is intriguing to inquire after the conditions under which governments and illegal practices enjoy some variety of symbiosis...” Ibid, 1.

<sup>62</sup> Ibid, 6.

<sup>63</sup> Ibid, 18.

transnational organized crime activity is of paramount importance, especially the nature of state corruption.

### *Corruption and the state as a criminal agent*

In terms of corruption, Nigeria is often viewed as the archetypal kleptocracy. Transparency International, in their latest annual Corruptions Perceptions Index, ranks Nigeria as the third most corrupt country in their survey with an abysmal score indicating rampant corruption<sup>64</sup>. This corruption is likely facilitated by Nigeria's weak institutions which are approached as prizes to be won as opposed to legitimate social contracts that must be upheld. Kleptocracies often become sanctuaries for organized crime groups especially when these states are coupled with lax regulations of their financial systems and other weak economic laws. Abacha was the classic leader of a kleptocratic state and looted the economic revenue of Nigeria in addition to demanding outrageous kickbacks for legitimate and illegitimate businesses to operate<sup>65</sup>. And like many other African nation-states, Nigeria is a patrimonial state which can lead to complicity between elites and criminals, as is thought to be the case with the narcotics trade: Nigeria's political elite are very much involved in criminal activity, specifically as being shadow agents for the illicit drug trade. This involvement is typically in the form of a levy or tax on narcotics that pass through Nigeria as well as additional charges on the traffickers that are subsequently pocketed by government officials. The process is somewhat similar to how Nigerian elite loot oil revenue, though drug profits only form a small part of personal

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<sup>64</sup> Transparency International, *Global corruption report*, (2006) [Online]. Available: [http://www.transparency.org/publications/gcr/download\\_gcr](http://www.transparency.org/publications/gcr/download_gcr) [2006, November 13].

<sup>65</sup> Federation of American Scientists, *International crime threat assessment*, (2000) [Online]. Available: <http://www.fas.org/irp/threat/pub45270chap4.html> [2006, November 13].

revenue accumulation for the elite. But profits are substantial enough that critics believe “...a large part of the Nigerian economy and of Nigerian society is irrigated by the profits of the drug trade, in a similar way to what has happened in Colombia”<sup>66</sup>. Corruption, then, seems to stem from the availability of opportunities, whether it is in the form of oil revenue that can be robbed from the national coffers to implicit deals with transnational organized crime groups that can produce a steady stream of personal revenue.

Chinua Achebe subscribes to a similar idea and explains that rather than being inherently corrupt, “Nigerians are corrupt because the system under which they live today makes corruption easy and profitable; they will cease to be corrupt when corruption is made difficult and inconvenient”<sup>67</sup>. Today, Nigeria produces 2.45 million barrels of oil a day<sup>68</sup>. This production is regulated by weak institutions and multi-national corporations who are not answerable to the people. Furthermore, revenues are entrusted to kleptocratic government officials who have both a reputation and history of unscrupulous behavior: General Ibrahim Babangida, former Nigerian military dictator for example, is believed to have amassed a fortune in excess \$30 billion a la petrodollars allowing him to join the ranks of the richest people in the world. Similarly, his successor General Sani Abacha is believed to have stolen \$4 billion within the first five years of rule<sup>69</sup>. Maurice Ibekwe, a former Federal Nigerian House of Representatives member, was charged with involvement in advanced fee scams but died in custody before he could be prosecuted. Ibekwe, in collusion with candidates for the Popular Democratic Party (PDP) and

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<sup>66</sup> Bayart, Ellis, and Hibou, 29.

<sup>67</sup> Chinua Achebe, *The Trouble with Nigeria* (Enugu: Fourth Dimension Publishing Co, Ltd, 1983), 48.

<sup>68</sup> CIA, *The world factbook-Nigeria*.

<sup>69</sup> Godfrey Mwakikagile, *Africa is in a Mess: What Went Wrong and What Should be Done* (Fultus: National Academic Press, 2004), 23.



Emmanuel Nwude, a prominent PDP supporter, deceived a well-connected Brazilian banker into transferring close to a quarter of a billion dollars for the fictitious construction of an airport in Abuja. This was the largest 419 case ever reported and Nwude, the instigator, remarkably to this day is still a major share-holder of Union Bank, which is ranked among the largest financial institutions in Nigeria<sup>70</sup>. When Nigeria's leaders overtly loot, steal and generate income by clearly illegitimate means, their actions suggest to the rest of the population who are struggling to survive that wealth can be accumulated by any means necessary. Thus, social control mechanisms such as discouraging deviance and ensuring a collective conscience are destroyed when top-ranking government officials are blatant examples of criminal agents.

Corruption, defined as "...the combination of positions of public office with positions of accumulation...was always a feature of the mercantilist trade system which was at its zenith in Africa from 1930 to 1980." Kleptocracies, then, are not peculiar to Africa but defined various governments at different points in their history around the world, many of whom plundered the state at shocking rates reaching "Mobutu-esque proportions"<sup>71</sup>. The mercantilist system's introduction to Africa, including its obsession with accumulation and disregard for the common good, consequently resulted in the formation of various kleptocracies throughout the continent, including Nigeria. Corruption has taken its toll on Nigeria and Godfrey Mwakikagile laments the fate of the state which post independence was viewed as Africa's great hope due to its immeasurable resources and skilled manpower that if developed could easily rival middle power countries such as

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<sup>70</sup> UNODC, *Transnational Organized Crime in the West African Region*, 26.

<sup>71</sup> Bayart, Ellis, and Hibou, 8.

Italy and Canada. There were even rumors during that time that Nigeria had the competence to build an atomic bomb in the coming decades. However, all the optimism and potential of the state was squandered repeatedly by military dictators who pocketed petrodollars on an incomprehensible scale, adding Nigeria to the list of defunct and corrupt African countries<sup>72</sup>.

Alan Smart identifies five basic explanations for the persistence of illegal economic activity in nation states and explains that situations typically have more than one case at play: the first case, market persistence is based on the fundamental idea of supply and demand. In these cases, incentives for illegal activity are greater than the states capacity to control the market. In the second case, ambiguous persistence, typically small-scale illegal activity is tolerated or laxly policed even though it may cause a loss of significant revenue for the state. An example of this would be the informal economies in postcolonial regions of West Africa. The third case, managed persistence, is when the state derives substantial benefit from illegal activity and makes token efforts to regulate. According to Smart “It has also been suggested that in a variety of states, bureaucracies profit from the proliferation of costly regulations in order to extract bribes from economic agents.” This is most likely the case in Nigeria where government officials are involved in various illicit activities, especially narcotics and fraud, and bribery is often viewed as a standard business practice. The fourth case, rebellious persistence, is characterized by internal political actors such as guerrilla groups who guard illicit practices regardless of opposition from the state. Typically, the state structure is constituted of open spaces with somewhat autonomous actors who allow illegal practices due to collected revenue. This

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<sup>72</sup> Mwakikagile, 46.

is how the Medellin cocaine cartel functioned in Colombia. And lastly, subversive persistence whereby foreign actors support illicit practices in order to undermine the state and generated revenues and other benefits go to the governments of the other state<sup>73</sup>. Nigeria appears to primarily suffer from managed persistence, where the state in collusion with criminal networks generates substantial personal revenue.

### *Territorial disputes*

In terms of territorial disputes, another factor thought to make a country hospitable to transnational organized crime, Nigeria is no stranger to disputed land. The country has a diverse array of ethnicities totaling some 250 groups and Nigerians are notoriously unpatriotic and divided<sup>74</sup>, thus disputes over land are inevitable. One such dispute resulted in a civil war, from 1967 to 1970, when a region in southeastern Nigeria broke away in order to assert its independence as the Republic of Biafra<sup>75</sup>. Other territorial disputes are economically motivated and control over resource-rich regions are hotly contested. In the late 1990s, Nigeria and Cameroon's dispute of the oil-rich Bakassi peninsula was heard at the International Court of Justice and is yet to be completely resolved<sup>76</sup>. Early this year, 4000 Nigerians were displaced as a dispute broke out over which ethnic group had the right to remove sand in a riverbed in Namu, a small town located in Southern Nigeria<sup>77</sup>. Today the Niger Delta serves as a source of immense violence and conflict, where local armed gangs are outraged at the presence of foreign oil

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<sup>73</sup> McC. Heyman, 103-105.

<sup>74</sup> Achebe, 17.

<sup>75</sup> UNODC, *Transnational Organized Crime in the West African Region*, 2.

<sup>76</sup> CIA, *The world factbook-disputes-international*, (2006) [Online]. Available: <https://www.cia.gov/cia/publications/factbook/fields/2070.html> [2006, November 13].

<sup>77</sup> BBCnews, *Sand row sparks Nigeria clashes*, (2006) [Online]. Available: <http://news.bbc.co.uk/2/hi/africa/4909156.stm> [2006, November 13].

companies and the bleakness of their own economic futures, and are consequently fighting over control of oil resources.

#### *Domestic trafficking routes and transit points*

Nigeria is also home to various major trafficking routes and serves as a transit country for guns, drugs, and humans-beings, which is believed to be another factor which aggravates the prevalence of transnational organized crime in a country. In terms of drug trafficking on the continent, “Nigeria is the country most directly implicated in the narcotics trade as a whole, and is the country south of the Sahara regarded by American law enforcement agencies with the most concern”<sup>78</sup>. Drug trafficking routes predominately in heroine and cocaine from Asia and Latin America respectively transit through Nigeria and on to their destined European and American markets. Trafficking routes in human beings originate in Nigeria and are destined for the Middle East, Europe, and North America. This trade is often facilitated by Nigerian madams, themselves former prostitutes, who recruit girls typically from the Edo state as well as various other regions in West Africa and send them to work in the sex business overseas. Furthermore, firearms trafficking, initiated in Ghana, passes through various neighboring countries and inevitably into the hands of Nigerian criminals via the market in Onitsha, the largest market of its kind in the region. In addition to the involvement of small arms in localized routine criminal activity, these arms imports are believed to be utilized in the Niger Delta region where severe conflict rages for control over oil fields and potential oil bunkering turf<sup>79</sup>.

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<sup>78</sup> Bayart, Ellis, and Hibou, 9.

<sup>79</sup> UNODC, *Transnational Organized Crime in the West African Region*, 20-30.

### 2.3 Nigerian syndicates, traditional transnational ethnic-networks, and the Ibos of Nigeria

Nigerian trafficking networks are believed to be the most eminent in the region and the Ibos of Nigeria are a particularly successful group in both the licit and illicit economies throughout West Africa. According to experts, “The comparative advantage of African drug traffickers, in a market of literally cut-throat competitiveness, stems from their membership of segmentary, decentralized and flexible communities, endowed with a high reputation for commercial expertise developed over generations”<sup>80</sup>. This most closely characterizes the Ibos of Nigeria who are thought to exert primary control over the most prominent West African drug networks responsible for supplying heroin to industrialized nations including the United States<sup>81</sup>. The Nigerian Syndicates, such as the Ibo, are believed to have been successful drug traffickers for various reasons including sophisticated systems of disguising illegal goods, the ability to mass-recruit individual mules, some of whom carry inside their bodies close to \$2 million worth of heroin, in addition to the linguistic advantages of various Nigerian dialects, making the groups impregnable to outside law enforcement agencies. The Nigerian networks are also configured in such a way that they are able to engage with the major South-East Asian and Latin American criminal organizations, allowing them to directly distribute both heroine and cocaine to the American and European markets<sup>82</sup>. Furthermore, the Ibos are thought to dominate transnational advanced fee fraud scams<sup>83</sup>. The Lebanese, like the Ibos, dominate various markets throughout West Africa though they account for only a

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<sup>80</sup> Bayart, Ellis, and Hibou, 11.

<sup>81</sup> The Ibos are “...said to control up to 70 or 80 per cent of Buremese heroin reaching the American market and up to 35 or 40 per cent of heroin of all origin going to the United States.” See: Ibid, 9.

<sup>82</sup> Ibid, 10-11.

<sup>83</sup> Chua, 108-109.

tiny percentage of the overall population. In Sierra Leone, where this influence is glaringly evident, the Lebanese controlled the most lucrative sectors of the economy including gold, diamonds, retail, finance, real estate, and construction prior to Charles Taylor's war and today still exert considerable influence over various sectors<sup>84</sup>. In Nigeria the Lebanese play a less prominent, though considerably significant role.

Nigerian society is also characterized by common resentment to the Ibos. Achebe humorously explains that "Nigerians of all other ethnic groups will probably achieve consensus on no other matter than their common resentment of the Igbo<sup>85</sup>." This resentment, which he calls 'Igbo-trouble', is derived from the groups' success at all levels of Nigerian society, especially in terms of economic dominance. Because the Ibos were amenable and adaptive to change more so than the other Nigerian ethnic groups, in addition to prizing traits such as individualism and appreciating competitiveness, they advanced<sup>86</sup>. This advancement is exemplified in the form of dominance in various sectors of the economy including auto parts, shoes, textiles, long distance transportation, as well as the Ibos being strong contenders in various other enterprises so much so that "...there is virtually no commercial sector in Nigeria without a strong Ibo contingent"<sup>87</sup>.

Both the Ibos and the Lebanese depict the significance of transnational ethnic networks on organized crime activity that crosses borders. These networks utilize the same skills that contributed to their success in the formal economy and apply their expertise to the

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<sup>84</sup> Ibid, 116.

<sup>85</sup> Achebe, 56.

<sup>86</sup> Ibid, 58.

<sup>87</sup> Chua, 108.

informal economy. Their extensive networks and familiarity with international travel and trade allows them to fulfill the demand for various goods and services in the immediate West African region and beyond. According to the Federal Research Division of the Library of Congress:

Transnational ethnic networks are a natural outgrowth of artificial, colonial-era borders that divide ethnic groups in virtually all African countries. Local populations move back and forth freely across such borders. The resulting transnational networks readily transport stolen or illicit goods. Foreign communities resident in a given country also may form networks that often control legal commerce, but they may also protect well-established trafficking networks that channel illegal commodities between the host country in Africa and the home country abroad. Such networks exist among Chinese, Indian, Nigerian, and Russian communities in southern Africa and among Indian and Middle Eastern groups in East and West Africa. Such networks have come to characterize religious communities that may be ethnically based or trans-ethnic in composition, such as Muslims in coastal East Africa and in large parts of West Africa<sup>88</sup>.

Smuggling and prohibited trans-border trade in assorted commodities particularly flourished during colonial rule where imperial powers would place severe restrictions on imports from neighboring rival colonies. The borders proved too vast to patrol for the colonialists and African networks efficiently traded cash-crops, liquor, tobacco, petroleum lamps, and electronics among other sought after goods across various boundary lines. Nigeria, for instance, conducted a particularly flourishing trade with Benin where guns, gunpowder, and bicycles were exchanged for alcohol, tobacco, and cloth. After colonialism, weak African states were unable to adequately provide goods and services for their citizens causing the citizenry to increasingly rely on the informal economies of the trans-state networks for survival. These networks provided essential goods such as fuel and food and allowed farmers and other workers to purchase the tools

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<sup>88</sup> The Library of Congress, 3.

needed to adequately conduct their trade. Today these networks prosper more so than traditional social associations because they are experienced in manipulating borders and are well positioned to exploit the processes of globalization and regionalism. Unfortunately, these networks which were once seen as enriching and aiding the common African's survival are now increasingly driven by greed and profit, contributing to violence and insecurity in the region<sup>89</sup>.

#### **2.4 Other factors thought to contribute to crime: poverty and unemployment**

Nigeria has an unemployment rate of 2.9% and 60% of the population lives below the poverty line<sup>90</sup>. This is an interesting statistic because it shows in spite of Nigeria's almost full employment status, an overwhelming majority of its population lives below the poverty line thus revealing the inadequate nature of available work in Nigeria. Because a majority of the working population do not earn enough to maintain a tolerable standard of living, it is more likely that they will turn to other means to supplement their income. These means can include various forms of criminal activity, ranging from unsophisticated local advanced fee fraud scams to recruitment in large scale transnational criminal enterprises. An equally disturbing statistic estimates that 70% of Nigeria's recent university graduates are unemployed or in 'quasi-employment status', which barely covers the cost of everyday subsistence<sup>91</sup>. And it is this group of educated computer-savvy youth, lacking legitimate income making options and career opportunities, who are typically attracted to the lucrative transnational fraud businesses.

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<sup>89</sup> Bach, 22-29.

<sup>90</sup> CIA, *The world factbook-Nigeria*.

<sup>91</sup> Tive, 116.



On the law enforcement end, low wages for Nigerian police officers and other civil servants often ensures that police and bureaucratic agents can easily be bribed by 419 scammers and some may even go as far as collaborating with the schemes. In this sense corruption becomes an essential tool for survival. Interestingly, the 419 fraudsters are more technologically sophisticated than the average Nigerian policeman who lacks even the fundamental equipment to conduct everyday operations. Further hindrances to investigating fraudulent claims is that the average Nigerian police officer lacks training in basic computer skills and the more advanced forensic accounting techniques that could uncover suspected white collar criminal activity. Thus, the police are repeatedly outwitted and outsmarted by the fraudsters and prosecution and punishment is rare, if not a nonexistent threat<sup>92</sup>. These factors, especially minimal risk of punishment, all serve to encourage the occurrence of various crimes within Nigeria's borders.

## **2.5 Other factors thought to contribute to crime: The effects of regionalization on West Africa**

According to a UNODC interview with a Sierra Leonean police officer, organized crime in Sierra Leone is attached to the establishment of the Economic Community of West African States (ECOWAS) in 1975 which resulted in large population influxes at unprecedented levels and allowed Nigerians to initiate early organized crime activity in the country<sup>93</sup>. This depicts an interesting parallel between regionalism initiatives in Africa and transnational organized crime. Recently much focus has been accorded to regionalization and advocates of regional integration efforts often subscribe to the view

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<sup>92</sup> Tive, 125-126.

<sup>93</sup> UNODC, *Transnational Organized Crime in the West African Region*, 4-5.

that the future of the sole nation-state is a bleak one and rather the uniting of states into formidable blocs, like ECOWAS, is the best way to remain viable in the international political economy. Because regional integration is a facilitator of trans-state networks, a negative implication of this fact is that integration unintentionally gives rise to an informal economy which benefits organized crime groups. Trans-state networks prosper with regional integration because the processes often entail a blurring of borders and a loss of sovereignty, allowing for new opportunities and terrain to be exploited.

Transnational organized crime groups, who deal in various commodities in Africa ranging from humans to arms, are a prime example of trans-state networks. Thus an inadvertent effect of increased regional cooperation and regionalization among weak economic states is the promotion of cross-border crime. This is perhaps most evident in West Africa, which has a history of efficient trans-state network trade and the region has served as a playground for multiple attempts at regionalization with each attempt being more ambitious than the last. Daniel Bach refers to this as ‘regionalism as a quest’ where objectives are broad and include integration at multiple levels and expanding mandates, ranging from the economy to the military<sup>94</sup>. Bach explains “Trade networks have developed in conjunction with transactions on basic products, such as petroleum, staple food and cash crops, as well as more sophisticated or high value-added goods, such as arms, hi-fi equipment, medicine, diamonds, ivory, and drugs”<sup>95</sup>. These trans-state networks “...thrive from the capacity to take advantage of opportunities created by the porosity of frontiers, weak state territorial control and the spread of insecurity and

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<sup>94</sup> Bach, 23-24.

<sup>95</sup> Ibid, 26.

violence, which are powerfully enhanced by the conversion of corporate and public functions into private sources of gain by those in control...”<sup>96</sup>. Thus, just as regional integration increases legal and licit cooperation between countries, namely in the form of trade liberalization, it also facilitates the trade in illicit goods and illegal services.

Nigerian hegemony within its region and in regional arrangements such as ECOWAS is a well known phenomenon. Interestingly, just as Nigeria is a leader economically in West Africa it has also become a leader and a pioneer in the various illicit trades both in its region and beyond. This is likely due in part to the ancient traditional trade routes established by various Nigerian ethnic groups such as the Ibo, Yoruba, and Hausa trading networks and their application within today’s interconnected world. Marchand explains:

The combined post-cold war era/post-US hegemony has changed the structure of world order from a single, clear and quite transparent bipolar system to a set of intricate multipolar networks of strategic alliances—entailing a revolution in military affairs?—and highly flexible markets. Added to these factors we have the informal/formal nexuses in terms of regionalisms with myriad actors, along with a set of new security issues which defy easy containment, such as drugs, gangs, guns, migration, etc<sup>97</sup>.

Furthermore, the informal economy created by these myriad actors becomes a powerful entity: “the second economy or the informal economy of the border is not populated by completely powerless social groups and individuals with little or no control over their daily lives”<sup>98</sup> but lively and enterprising traders who will take advantage of opportunities presented by various regional arrangements. These trans-state networks are quick to step in and fill niches that the state is unable to adequately provide, which serves to increase

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<sup>96</sup> Ibid, 26.

<sup>97</sup> Marianne H. Marchand, Morten Boas and Timothy Shaw “The Political Economy of New regionalisms” *Third World Quarterly*, 20, 5 (1999): 905.

<sup>98</sup> Ibid, 906.

the importance and power of these networks. On an interesting side note, in terms of trade within the African continent, South Africa and Nigeria experienced substantial increases in trade between the two nations immediately following the fall of the apartheid regime<sup>99</sup>. Interestingly, these two nations are believed to have the largest illicit economies in Africa which are likely facilitated by the increased trade between the two states, thus having major implications for rates of trafficking and smuggling throughout the continent.

## 2.6 Early transnational forms of organized crime

While sophisticated networks of long-distance commerce have a well-established history in the West African region as discussed earlier, only in the 1970s did scores of West Africans turn to criminal activity for its income earning potential and it is widely believed that many of Africa's subsequent elite gained their wealth through illicit activity.

According to the UNODC:

Organized crime in West Africa in its contemporary form is generally perceived to have emerged in the 1970s, contemporaneous with the oil price rises of that decade, the delinking of the dollar from gold, high inflation, and the rapid spread of debt in the developing world<sup>100</sup>.

In the case of Nigeria, over-invoicing and falsifying official documentation in order to transfer funds outside of the state can be traced pre 1975. Major Asian, Lebanese, and European companies and banks based throughout West Africa were accomplices to foreign exchange fraud and false accounting which facilitated Nigeria's elite to move

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<sup>99</sup> Robert Davies, "South Africa's Economic Relations with Africa: Current Patterns and Future Perspectives", in Adebayo Adedeji, ed., *South Africa and Africa: within or apart?* (London: Zed Books 1996), 167.

<sup>100</sup> UNODC, *Transnational Organized Crime in the West African Region*, 4.

mass sums of money out of the country. The money is generally believed to have been generated by oil revenues which skyrocketed during the oil price hikes of the 1970's. Additionally, the smuggling of crude oil in ships, termed "bunkering", appears to be a uniquely Nigerian crime and is believed to generate up to 35% of Nigeria's oil exports and account for billions of dollars of illegitimately gained wealth. In terms of other organized crimes in Nigeria, the 1980s recorded the first instance of heroin trafficking, the widespread prevalence of transnational advanced fee fraud, as well as initial cases of human trafficking for the purposes of prostitution. Currently, Nigeria is home to various trafficking routes, including trafficking in humans to various countries in the Middle East, North America, and Europe; narcotics trafficking to Southern Africa, North America, and Europe; as well as housing various heroin and cocaine transit routes which originate in Asia and Latin America and are destined for the Northern markets. Interestingly, Nigeria is believed to have pioneered drug trafficking in the West African region by expanding its operations to neighboring countries. Nigeria is also one of largest importers of light weapons, which serve to fuel regional conflict. Additionally, high rates of money laundering and various types of fraud are rampant throughout the Nigerian state today<sup>101</sup>.

## **2.7 Early origins of advanced fee fraud**

Advance-fee fraud is an especially durable con. In an early variation, the Spanish Prisoner Letter which dates to the sixteenth century, scammers wrote to English gentry and pleaded for help in freeing a fictitious wealthy countryman who was imprisoned in

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<sup>101</sup> Ibid, 5-21, 30.

Spain<sup>102</sup>. Its Nigerian variation differs but is based on the same principles of deception in order to gain monetarily and its origins can be traced back to the oil boom. While most countries suffered extensively from the problems posed by the oil price hikes in 1973 and 1979, Nigeria, the sole oil producer at that time in the West African region, received unprecedented revenues<sup>103</sup> much of which was subsequently pocketed and deposited into the bank accounts of government officials. Specific incidents of organized crime in Nigeria during this period in the 1970s generally entailed bureaucratic forms of crime including falsifying imports by way of over-invoicing or importing shoddy goods for government departments in association with government officials, with whom the profits were then shared. It is often believed that these activities were precursors to contemporary forms of transnational fraud, especially the advanced fee fraud scams that are today characteristic of Nigeria<sup>104</sup>.

According to various accounts from a former Nigerian police officer, there are two groups of fraudsters or con artists in Nigeria: local con men and International '419ners'. The former predate the transnational scams and focused on scamming locals through various means such as the black money scam to curious hypnotism and superstition schemes. These crude con men, locally referred to as 'guy men', eventually widened their scope and evolved into more sophisticated fraudsters or "OBT men", their name derived from the passage in section 419 of the Nigerian criminal code which prohibits the act of *obtaining* goods or money through false pretenses. OBT men emerging in the late 1970s used technology, typically the letterpress and typewriters, to create fraudulent

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<sup>102</sup> Zuckoff.

<sup>103</sup> UNODC, *Transnational Organized Crime in the West African Region*, 3.

<sup>104</sup> Ibid, 5.

invoices and receipts among other necessary documents. Inflation in the mid-1980s, commonly associated with implementation of International Monetary Fund (IMF) regulations around 1985 followed by a \$450 million loan from the World Bank in 1989, caused unemployment and other social problems and the local OBT scams began to draw skilled and educated youth, who lacked legitimate income making opportunities elsewhere. These youth, sensing the worthless value of the Nigerian Naira and facilitated by reductions in foreign exchange control shifted from local scams to ones targeting stronger foreign currencies, giving birth to what is today referred to globally as the 419 scam. Thus the International 419ers are a more recent and more sophisticated phenomenon focused primarily on defrauding victims in the industrialized nations. Local con artists, still present today, may eventually become International 419ers if they are able to fund the equipment necessary, namely computers and internet lines, to conduct their activities transnationally<sup>105</sup>. The evolution of advanced fee fraud in Nigeria then, is closely associated with the economic circumstances surrounding the state, which will be the main focus of the subsequent chapters.

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<sup>105</sup> Tive, 11-24.

### **3: Globalization and the Impact of Technology and Neo-Liberalism**

As shown in the previous chapter, much of Nigeria's organized crime has been the result of lagging economic opportunities which forced people into illegitimate activities. This is especially true in the case of advanced fee fraud. But many states go through tough economic times and do not emerge as leaders in organized crime activity, let alone generate new genres of crime as Nigeria has done with 419 scams. Thus, Nigeria presents a unique case which can be explained in part through the implications of globalization, namely the impact of technology and neo-liberal economic policies since the 1980s which actually coincides with the beginning of Nigeria's intense involvement in transnational forms of organized crime. Globalization's implications presents numerous opportunities for organized crime groups to exploit and allows established criminal groups and relatively new enterprises, such as the African criminal networks, to expand the scope of their activities as well as liaise with competing cartels, resulting in a menacing network of illicit activity. The rise of technology further allows complex criminal transactions to be conducted with ease, efficiency, and relative anonymity. When globalization is coupled with an already unstable and corrupt social structure, like that of Nigeria's, the appeal and opportunities for transnational organized crime within that globalized and socially disorganized territory and beyond become unprecedented.

#### **3.1 Globalization and Africa**

Proponents of unfettered globalization often ascribe Africa's economic woes to the lack of globalization processes taking hold on the continent. However, as Jackson explains



“the peripheral regions of the world—such as Africa—far from remaining untouched by these forces, are powerfully affected, but not necessarily towards positive change”<sup>106</sup>. According to the United Nations Development Programme (UNDP) in regards to the World Trade Organization’s (WTO) development agenda and agreements from 1995-2005, or the first decade of the WTO’s existence, the 49 least developed countries were estimated to be worse off \$600 million each year, while Sub-Saharan Africa would be worse off by \$1.2 billion each year<sup>107</sup>. Therefore, as globalization has given rise to unprecedented prosperity in certain parts of the world, it has concurrently spawned unprecedented poverty and inequality which is associated with what is commonly referred to as ‘a dark side’. This dark side includes the various illicit activities that have experienced surges in recent times: human trafficking, transnational fraud, drug trafficking, organ trafficking, money laundering, arms smuggling, and terrorism are all among the transnational organized crimes that have flourished globally and whose impact is far more recognized in recent years. The prevalence of transnational organized crime on the agenda’s of various governments around the world beginning in the 1990s can be attributed to the alleged threats ethnic based groups posed to security and economic configurations in these countries<sup>108</sup>. Africa is no exception to the mounting trend and in addition to the traditional transnational crimes, the continent also suffers from high levels of smuggling of stolen cars, endangered species, precious minerals, as well as widespread corruption. The allure of these illicit activities has been driven by both increasing profits

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<sup>106</sup> Richard Jackson, “Violent internal conflicts and the African state: Towards a framework of analysis” *Journal of Contemporary African Studies*, 20, 1 (2002): 46.

<sup>107</sup> E.J. Kelsey, “Reclaiming the future: Some reflections post-September 11”, in CW Du Toit, and GJA Lubbe, eds., *After September 11: Globalisation, War and Peace*. (Pretoria: UNISA, 2002): 12.

<sup>108</sup> Adam Edwards, “Transnational organized crime”, in James Sheptycki and Ali Wardak, eds., *Transnational and Comparative Criminology*. (London: Glasshouse Press, 2005): 212.

to be made and facilitated by sweeping technological innovations which have resulted in the flattening of the world

Many contend the role of globalization in the transnational organized crime phenomena. It is true that crime transcending borders is by no means a new occurrence, but today globalization in association with local social conditions, is seen as the primary driving force behind various transnational organized crimes. Globalization, characterized by rising cultural exchange and international trade as well as free market economics and democratization, is seen by many as a desirable end product of a truly modernized society and the terms globalization and modernization are often used interchangeably. However, when examined closely, certain aspects of globalization and modernization can be criminogenic and directly responsible for various transnational organized crime phenomena, especially advanced fee fraud. The UNODC refers to this as the unintentional implications and side-effects of globalization where widespread economic and technological advancement has resulted in “unprecedented openings for illegitimate activities by criminal groups and enterprises”<sup>109</sup>. Among these are a range of opportunities for criminal networks varying from the gruesome practice of buying and selling organs to more white-collar oriented crime, such as advanced fee fraud.

According to Naim, illicit networks have undergone massive transformations since the 1990s due mainly to four major advancements associated with the globalization processes. The first advancement affects the method of operation for criminal enterprises and includes the ability to source, formulate, and assemble products and services in any

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<sup>109</sup> UNODC, *Organized crime*.

corner of the world. In the case of transnational fraud, this advancement goes beyond logistics and includes the ability for organized crime groups to shop around for favorable jurisdictions as well as financial institutions willing to support their questionable transactions, many of which will be located in developing countries. Secondly, traditional safe houses and meeting spots have been replaced by 'virtual warehouses' and internet chatrooms, allowing groups to communicate with unprecedented ease and anonymity via the world wide web. Third, advancements in the illicit financial markets allow numerous options for the storage of significant sums of cash in addition to the availability of countless financiers willing to coalesce and reap the profits of various organized crime activities. And finally, the dismantling of the pyramidal structure of organized crime into multiple self-sustaining cells serves to impede law enforcement efforts to target heads in order to inhibit incidences of illicit activity<sup>110</sup>. Overall, globalization has provided tangible opportunities and new methods of operation for the various forms of transnational organized crime.

The advent of globalization on Africa's shores has brought with it not only legitimate multinational corporations but illegitimate criminal enterprises. Because Africa has failed to find a mutually beneficial niche in the global economy, many African states are characterized by shaky political regimes that are susceptible to involvement in illicit activities. These illicit activities, through unofficial avenues such as bribery and corruption, provide revenue to a state that is unable to function adequately in the global economy. This is not to imply that the move to illicit activities by government officials is an altruistic one, motivated by establishing the common welfare or good. In fact,

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<sup>110</sup> Naim, 227-8.

Mwakikagile distinguishes between productive corruption and malignant corruption; Africa suffers from the latter while the more successful Asian economies subscribe to the former. Corrupt Asian officials typically use a portion of their illicitly generated funds towards funding social welfare programs and infrastructure building thus investing in their own countries. African officials, on the other hand, are solely concerned with personal accumulation and typically move substantial amounts of money overseas ignoring the pressing social needs of their citizenry<sup>111</sup>. States as corrupt actors coalescing with criminal networks is in line with Margaret Levi's theory of predatory rule where "In predatory states...coherence is restricted to a small presidential clique. Beyond this, market relations dominate administrative behavior so that 'everything is for sale...And in this traffic, holding any slice of public power constitutes a veritable exchange instrument'"<sup>112</sup>. A detrimental repercussion of globalization then, on weak states is that these states are left with few options and a bleak future and may potentially coalesce with powerful organized crime groups and may perhaps even become agents for criminal activity. As Levi, explained:

When others control resources that the ruler needs, their bargaining power increases, and deals and contracts may be made with these groups. This can lead to tacit tolerance of wealthy criminal entrepreneurs in illegal arms or drug trades who support election campaigns or guerilla-suppression efforts<sup>113</sup>.

Criminal activities are believed to blossom as "the world system is subject to a simultaneous process of globalization and loss of precise territorial definition, which may not lead to the eclipse of the state as an organ of power, but which is most surely leading

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<sup>111</sup> Mwakikagile, 74.

<sup>112</sup> McC.Heyman, 102.

<sup>113</sup> Levi quoted in McC.Heyman, 102.

to the development of transnational relations between societies<sup>114</sup>. These transnational relations are particularly beneficial to criminal enterprises which quickly liaise with relevant actors including government elite, diversify their transactions and commodities, and move into market niches as they become available.

Interestingly, Edwin Sutherland's theory of differential association coined in the late 1940s provides an explanation of white collar crime and organized crime and is especially relevant in light of globalization. In a nutshell, Sutherland contends that crime is a learned behavior and individuals learn definitions of the law and legal codes as favorable or unfavorable to their individual selves. Crime occurs when a person has an excess of favorable law-breaking definitions in relation to definitions for unfavorable law-breaking, or what is referred to as differential association. Organized crime, such as transnational fraud, is learned by association with others who are involved in these activities. These learned criminal associations are reflective of the cultural values that characterize the societies these groups originate from, especially in the case of free market societies which typically exert massive pressures for competitiveness which often manifests itself in illicit activities such as bypassing regulations and corruption<sup>115</sup>. Globalization which entails the expansion of free markets and their imposition on developing countries also entails an expansion of competitive pressures and new cultural values of monetary accumulation to virgin populations. In this sense, globalization serves to spread the temptation and allure of criminal activity which subsequently manifests itself in socially adapted localized ways, such as advanced fee fraud in Nigeria.

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<sup>114</sup> Bayart, Ellis, and Hibou, 9.

<sup>115</sup> Edwards, 218.

### 3.2 What has globalization meant for transnational organized crime groups?

As discussed in the initial chapter, globalization has entailed a restructuring of the classical organized crime group from a traditional hierarchy into more adaptable and decentralized networks. Thus the classic view of transnational organized crime as an external threat perpetrated by ethnically arranged 'others' as opposed to broad categories of activities appears contradictory in light of contemporary global processes and implications. Globalization entails a restructuring of these groups and they are no longer isolated within their ethnic hierarchies but have evolved into fluid networks at interplay with each other. While many groups, such as the Nigerian Criminal Enterprises, are ethnically based they are not bound by these ethnic ties but often fraternize with other groups inevitably multiplying the skill and resource bases of these criminal networks<sup>116</sup>. Consider for example that the Nigerian groups are ranked among the most active heroin traffickers, though Nigeria does not produce any heroin of its own<sup>117</sup> thus the opportunities presented by globalization for various transnational organized crime groups far outweigh traditional notions of comparative advantage. Furthermore, transnational organized crime groups are not confined to a shady parallel marketplace but rather account for a significant sector of the legitimate economy through grey markets which form a mixture of legitimate and illegitimate products and services<sup>118</sup>. They are able to do this more so than ever because many organized crime groups now utilize legitimately trained professionals who provide cutting-edge expertise and marketing advice to these groups. Financial experts who help groups to map out money laundering techniques,

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<sup>116</sup> "Rather than treat each other as rivals, many criminal organizations are sharing information, services, resources, and market access according to the principle of comparative advantage". See: The Federation of American Scientists.

<sup>117</sup> Ibid.

<sup>118</sup> Edwards, 214-18.

establish front companies, and manage investments among other necessary services are also commonly used. Other professionals, such as lawyers and transportation specialists are also employed which greatly enhances the overall efficiency of these organizations<sup>119</sup>.

Beyond these structural reconfigurations, globalization processes have created vast new frontiers of uncertainly riddled with opportunities for various actors. Areas and situations which were traditionally dominated by nation-states have opened up to non-state actors and informal networks. For example, globalization has allowed transnational organized crime groups to participate in conflict, especially in Africa. Africa's internal and violent conflicts, both intra-state and inter-state, are "characterised by a blurring of the lines between war, organised crime and large-scale human rights violations" or more specifically "the processes of globalisation have widened the number and type of participants" in conflicts<sup>120</sup>. These actors range from international and humanitarian organizations, multinational corporations, local groups and militias, and criminal networks among various others. These groups serve to diminish the historical power and clout of the nation-state and inevitably become powerful actors with their own agendas and ability to shape the international political economy.

Africa is full of examples in which government officials and Western countries partnered with multinational corporations to exploit the continent's vast natural resources, a practice that depicts globalization at its very essence. Globalization encourages multinationals to move to regions of the world where lax regulations, cheap utilities and

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<sup>119</sup> Federation of American Scientists.

<sup>120</sup> Jackson, 33.

labor would allow their industries to function most cheaply<sup>121</sup>, but this often entails local populations and businesses being uprooted by these powerful multinational corporations. A side-effect of this exploitation, unfortunately, is that they allow organized crime groups to gain a foothold on the economies of these countries, inevitably perpetuating the cycle of exploitation. Consider for instance the case of the Ogoni people of the southern Delta region of Nigeria and Shell, one of the largest oil producing companies in the world and one of eight oil producers situated in the Delta region. When Shell and these other corporations expressed concern about infringements by the local Ogoni population that could potentially decrease oil output, the outraged Nigerian government brutally stopped peaceful Ogoni protests in addition to killing countless Ogonis who voiced their concerns about the environmental havoc the oil companies were causing to their land. Many local Ogonis who had already lost their livelihood, now lost their lives in order to ensure that the oil companies could efficiently continue their operations, despite the blatant environmental damage occurring to the traditional farming and fishing communities in the Delta region. Azogino refers to incidences such as these as 'crimes of neo-colonialism', where an already impoverished population is further entrenched in poverty as globalization takes away sources of income for local groups in favor of large profitable multinational corporations. Oil accounts for 80% of the Nigerian states' revenue, much of which bypasses the pressing social needs of the Ogonis in addition to countless other ordinary citizens, and directly makes it way into the bottomless pockets of the

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<sup>121</sup> Croall explains that corporations typically shop around and are most attracted to regions which include low taxes, lax environmental laws, weak worker health and safety regulations, and an abundance of cheap labor. See: Hazel Croall, "Transnational white collar crime", in James Sheptycki and Ali Wardak, eds., *Transnational and Comparative Criminology*. (London: Glasshouse Press, 2005): 230.



government elite, creating a potentially flammable situation<sup>122</sup>. It is in these desperate situations where criminal networks originate or easily infiltrate in order to derive benefit. Oil bunkering, for example, is now a pervasive phenomenon in the Niger Delta as various local groups now rely on this illicit activity to survive.

On a similar note, Jackson sees globalization processes as an explanation for internal conflict: for fragile states the implications of globalization, namely a 'deconstructed setting' that allows the participation of many actors, causes the phenomenon of post-modern conflict which is inherently economic in nature. Various pressures exerted by numerous actors, often referred to as entrepreneurs each with their own interests and agendas, exploit the situation in order to profit from the conflict<sup>123</sup>. This is seen over and over again on the African continent, especially in situations where wars concurrently result in mass suffering for the citizenry but unprecedented revenue for the state and insurgent groups and often entails collusion between the state and criminal agents or the widespread usage of illicit activities. Charles Taylor, for instance, was thought to have greatly prospered from the Liberian Civil War much of which was funded by the illegal sale of natural resources to the tune of \$200-250 million annually<sup>124</sup>. Conflict in Angola and Sierra Leone is funded primarily through illicit trafficking of diamonds and mining of other precious minerals by the National Union for the Total Independence of Angola (UNITA) and the Revolutionary United Front (RUF) respectively. These situations, whereby states and political groups rely on illicit activity to finance their agendas serve to

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<sup>122</sup> Agozino, 127-9.

<sup>123</sup> Jackson, 37.

<sup>124</sup> R.R. Laremont, Ed. *The Causes of War and the Consequences of Peacekeeping in Africa*. (Portsmouth: Heinemann, 2002), 13.

entrench criminal groups and make them indispensable associates of governments in terms of revenue generation, unintentionally increasing their power.

The African criminal enterprises in particular are thought to have benefited more from globalization than the traditional cartel and mafia models of organized crime whose structures were ill-equipped to capitalize on the changes in the international economy with the advent of globalization. Bayart et al. argue that the structural reconfigurations globalization has caused for organized crime groups has actually made African criminal enterprises more viable by valuing certain factors which are inherent in these African groups; the stress on individual success by any means necessary as opposed to strict adherence to a hierarchal structure, historical involvement in smuggling and fraud which was expanded through various globalization processes, traditional well-developed artisanal skills like mining, in addition to the potential and growing size of a domestic market for various narcotics all serve to benefit the African Criminal Enterprises more so than the traditional major drug organizations<sup>125</sup>. Thus the African Criminal Enterprises, especially the Nigerian organizations, have in a relatively short period of time established themselves as powerful contenders in highly competitive illicit markets such as heroine and cocaine trafficking in addition to becoming undisputed leaders in transnational fraud, particularly advanced fee fraud scams. These groups were particularly well equipped to ride the wave of opportunity globalization brought to various shores around the world.

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<sup>125</sup> Bayart, Ellis, and Hibou, 11-13.

Globalization has allowed criminal networks to become powerful contenders in conflict, war, and other political situations; arenas which were once dominated by the nation-state. Because globalization has knocked down barriers to profit-making, various groups now have the potential to generate large amounts of revenue and consequently wield unprecedented influence. With globalization already weakening and diminishing the sovereignty and power of the nation-state, transnational organized crime groups are quick to capitalize on the opportunities presented to them by the weakening of the state structure. These opportunities are typically in the form of technological advances in addition to economic liberalization, both discussed in further detail below.

### **3.3 New technology and communications in West Africa**

The idea of globalization as time and space compression which has rendered the world into a borderless community that is forever open for business and where rivals have transformed into competitors, has serious ramifications for Africa. The continent is clearly on the losing end of the new business propositions offered by globalization and even countries such as Nigeria, who are considered industrial powers and pivotal states on the continent have not fared well in the international political economy. Mwakikagile provides an illuminating example of Africa's bleak present state: In 1965, Nigeria was richer than Indonesia, and Ghana richer than Thailand. Today Indonesia is three times richer than Nigeria, and Thailand five times richer than Ghana. Incidentally, Indonesia was also a former colony which like many African states secured its independence post-World War II, and went from being poorer than Nigeria in 1965 to today having a larger

gross domestic product than all of the forty black African nations combined<sup>126</sup>. Thus the current state of economic desperation in Nigeria, despite the abundance of resources and possibility, coupled with the implications of globalization provides a compelling rationalization for the prevalence of advanced fee fraud as well as various other forms of transnational organized crime. To adequately explain how globalization has increased the prevalence of these crimes, specific components of globalization need to be focused on. These components range from the spread of technology to neo-liberal economic reforms, both which will be further extrapolated in order to better understand what globalization means for transnational organized crime activity in general and transnational fraud in particular.

The advent of new technology has had major ramifications on the ability of criminal networks to conduct their illicit activities. In a nutshell, technology has allowed illicit transactions to be conducted efficiently and anonymously. Consider for instance the evolution of technology and its relation to advanced fee fraud scams as an example of efficiency. These scams were initially conducted by post and for scammers to be able to successfully bait victims mass amounts of letters would need to be printed, sealed, addressed, and correctly stamped for international postage to carefully selected individuals and businesses in addition to waiting for positive replies which would again need to be communicated by post. The arrival of the fax machine allowed scammers to omit many of the tedious steps involved in the postal scams in addition to expecting speedier replies to their propositions. The introduction of email, however, was nothing short of revolutionary and now 419 scammers had instantaneous access to countless pools

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<sup>126</sup> Mwakikagile, 12-13.

of victims at a fraction of the cost. Similarly, other financial crimes, money laundering for example, now enjoy unprecedented ease due to various advancements in technology as do the traditional organized crimes such as narcotics and human trafficking. These illicit activities have benefited from advancements in the shipping system, primarily the advent of intermodal commercial shipping, which standardized the process and allowed shipments to be tracked online<sup>127</sup>.

The internet is undoubtedly the most revolutionary invention and is instrumental in the daily logistics and communication avenues for organized crime groups. The internet allows these groups regardless of their commodity or service, to communicate with anonymity. The use of encrypted e-mail in addition to other sophisticated ways of disguising records of contact serve to aggravate law enforcement efforts and help criminal groups evade capture. The Federation of American Scientists predict that in the future the most ominous threats in terms of transnational organized crime will likely come from small criminal networks who are technologically advanced and, via electronic manipulation of markets and computer theft, may severely destabilize international financial markets and related institutions<sup>128</sup>. Interestingly, the Nigerian Criminal Enterprises who are already among the leaders in illicit transnational fraud activity via electronic methods are well-positioned to be at the forefront of such future activity.

Globally, breakthroughs in communications provide unprecedented flexibility and have benefited both legitimate and illegitimate enterprises. Today transnational criminals are

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<sup>127</sup> Federation of American Scientists.

<sup>128</sup> Ibid.

able to effortlessly and instantaneously liaise with one another, and in terms of advanced fee fraud with victims, via various methods provided through the world wide web; email, internet chat rooms, and instant messaging clients, many of which can be further encrypted for anonymity. Sim cards and cell phones whose numbers are constantly switched ensure further layers of protection for criminal groups in addition to methods for erasing and disguising records of activity. In terms of communication within the West African region, in 2006 there were 21 million mobile cellular users in Nigeria, the highest number on the African continent. Nigeria further had 1535 internet hosts with approximately 1.7 million internet users. Currently Nigeria is home to 69 airports, 1 heliport, and 194,394km of roadway. Compare this to neighboring Ghana who in 2004 had 1.695 million cell phones and 384 internet hosts. Sierra Leone in 2003 had 113,200 cell phone users and 277 internet hosts. Cote d'Ivoire rivals Nigeria somewhat with an estimated 2.19 million cell phones in 2005 and 2015 internet hosts which boasted 300,000 internet users<sup>129</sup>. Overall, Nigeria appears to be the communications leader in the region and there appears to be ample opportunity for communication within West Africa and beyond as the necessary technological foundations have been laid down and are growing. These examples, on a crude scale may begin to explain rates of current involvement with advanced fee fraud scams whose contemporary methods of operation are entirely dependant on the availability of such technology.

### **3.4 Neo-liberal agendas: privatization and deregulation in Nigeria**

The imposition of the neo-liberal agenda, like that of the Washington Consensus and various Structural Adjustment Programmes, on the African continent is believed to have

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<sup>129</sup> CIA, *The world factbook-Nigeria*.

aggravated the widespread havoc and dismal standards of living that is characteristic of the overwhelming majority of African states. Neo-liberalism, which places primary importance on the market system, refers to “a resuscitation of the laissez-faire policies that were popular in some circles in the nineteenth century” but were generally recognized as insufficient in light of America’s Great Depression<sup>130</sup>. However, since the 1980s these policies have been imposed on Africa’s developing economies and the liberalization and privatization initiatives that were thought to benefit Africa in the long-run, and provide immediate benefits for the imposing institutions, instead played a considerable role in the prevalence of transnational organized crime. Numerous West African countries have willingly and unwillingly adopted these development strategies either with the intention of becoming viable players in the global political economy or simply to qualify for funds from the Bretton Woods institutions. Corall contends that the neo-liberal economics and the promotion of profit maximization, deregulation, and market freedom “...provides the ideological and legal space for crime to flourish” and both globalization and crime aspire to generate profit and achieve certain levels of commodification<sup>131</sup>. Thus, one of the unforeseen complications of these economic strategies is that they create favorable environments which allow transnational organized crime groups to flourish. The Federation of American Scientists explains the advantages of economic and trade liberalization for transnational organized crime groups:

Increasing economic interdependence has both promoted and benefited from reforms in many countries opening or liberalizing state-controlled economies with the intention of boosting trade and becoming more competitive in the global marketplace. Criminals have taken advantage of transitioning and more open economies to establish front companies and quasi-legitimate businesses that facilitate smuggling, money laundering, financial frauds, intellectual property

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<sup>130</sup> Stiglitz, *Globalization and its Discontents*, 74.

<sup>131</sup> Croall, 227-246.

piracy, and other illicit ventures. Multilateral economic agreements reducing trade barriers in North America, Europe, Asia, and other regions of the world have substantially increased the volume of international trade<sup>132</sup>.

Trade liberalization, which entails the opening up of borders and the lifting of various restrictions in order to fulfill supply and demand mechanisms, logically increases the volume of trade across those borders. The dark side of trade liberalization, then, or an unintentional implication is that transnational criminal networks suddenly find themselves presented with numerous opportunities and methods for transporting their illicit goods. These groups are efficiently and with minimal risk<sup>133</sup> able to adequately respond to market demands for goods irrelevant of geographical boundaries. This is most beneficial for the traditional organized crimes that focus on trafficking assorted commodities and Marchand explains that "Trade liberalisation as a part of the state-driven regionalisation processes can facilitate the regionalisation of gun-running, drug-trafficking and criminal networks"<sup>134</sup>. This is especially evident in West Africa, which has had many efforts for regional integration dominated by Nigeria, and where organized crime which originated in Nigeria soon spread across the region as Nigerian criminals traveled to neighboring countries simultaneously recruiting and exploiting the local populations. In a similar vein, relaxations on immigration or the increased transnational travel associated with globalization allow organized crime that is traditionally domestic to broaden its scope and expand to countries that exhibit favorable conditions. This is more relevant to transnational fraud, where fraudulent activity would be most amicable in

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<sup>132</sup> Federation of American Scientists.

<sup>133</sup> Consider the example cited by Naim: In terms of volume we are currently experiencing unprecedented travel and trade. For instance, 550 cargo containers pass through the port of Hong Kong alone on a daily basis or Heathrow Airport in London which receives 1,250 flights per day which is equivalent to 63 million passengers annually. Uncovering trafficking of various commodities like people or narcotics under these circumstances is akin to 'finding a needle in a haystack'. See: Naim, 77.

<sup>134</sup> Marchand, 906.



countries with weak law enforcement, weak laws regulating financial criminal activity, numerous financial institutions of questionable reputation as well as ubiquitous corruption. These factors would allow fraudsters and scammers to conduct their activities with minimal risk of interference from law enforcement and allow criminals to easily bribe officials or even recruit them into their scams. Globalization would allow transnational fraudsters to easily move and relocate their activities to favorable countries as need be. This is often the case with Nigerian 419 scammers who are found in various countries of West Africa such as the Kakadu group who conscious of the lack of computer crime legislation and inadequacy of the Sierra Leonean police operated numerous successful scams from within Sierra Leone's borders. This predominately Nigerian group defrauded various European victims with alluring propositions involving gold and diamonds and used their substantial profits to legitimately invest in merchandise imported from Nigeria to the capital Freetown. Furthermore the Kakadu group had regional ties to neighboring countries such as Cote d'Ivoire, Ghana, and Gambia.<sup>135</sup> The Kakadu group is a prime example of how organized crime groups exploit the globalization processes by shopping around for favorable jurisdictions with minimal threat of prosecution.

According to Bayart et al, African governments profit criminally from liberal economic reforms, such as privatization and deregulation, through the establishment of hidden power structures that exploit the legitimate means of coercion allowing for illegitimate

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<sup>135</sup> UNODC, *Transnational Organized Crime in the West African Region*, 14.

accumulation<sup>136</sup>. In other words, many neo-liberal reforms provide avenues in which a state with questionable intentions can exploit for the purposes of personal accumulation. Corruption, then, can be intensified by liberal economic reforms in countries such as Nigeria which already face epidemic proportions of illegitimate activity by government officials. Theoretically illicit profiting could occur when a state-owned company goes on the market and governments in collusion with shady agents agree to a mutually beneficial sale.

Or, as explained by the Federation of American Scientists, privatization opens up various opportunities for organized crime groups to gain entrance into the formal economy:

Through investments in legitimate enterprises, criminal organizations can gain substantial interests in, or even control over, critical sectors of the national economy. Criminally controlled or influenced businesses have ready access to considerable amounts of interest-free capital to invest in productive enterprises, an advantage legitimate businessmen do not have. Such unfair competition may put legitimate business enterprises at a competitive disadvantage. Criminal groups tend to invest more in high-volume cash-flow businesses that provide good cover for money laundering or contraband smuggling. Business enterprises influenced or controlled by criminal groups also put them in position to "steal" legitimate government and business revenue. Moreover, companies controlled by organized crime frequently create cost overruns or demand kickbacks in sectors such as public works projects<sup>137</sup>.

According to Hazel Croall, globalization can be criminogenic because "...many economically and socially harmful activities find space to flourish in the climate of deregulation and have become morally justifiable in the context of global neo-

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<sup>136</sup> Bayart, Ellis, and Hibou, 20-21.

<sup>137</sup> Federation of American Scientists.

liberalism”<sup>138</sup>. Included in this notion of neo-liberalism is the concept of liberalization which generally entails the lifting of restrictions in various arenas of the economy. The liberalizing of public services is a typical move in the neo-liberal agenda and Nigeria is currently undergoing mass liberalization in various service sectors. The privatization initiatives pioneered by the Obasanjo administration have been met with much opposition but currently Nigerian commercial and merchant banks, cement companies, oil companies including Unipetrol Nigeria and African Petroleum were among the first to undergo privatization efforts. Additionally, comprehensive other privatization initiatives encompassing telecommunications, electricity, ports, airlines and airports, railways and other sectors such as the Nigerian Security Printing and Minting Company Ltd and the National Insurance Corporation of Nigeria are also currently underway. Privatization processes often have problems related to transparency and the procedure can be inclined to manipulation. Nigeria typically relies on the auction method in which enterprises are awarded to the highest bidder. This can be problematic in that the highest bidder may not have the expertise to successfully take over operations and may have a personal agenda<sup>139</sup>. Privatization allows private actors with significant revenue to gain access into lucrative and essential services, many of whom in developing nations will likely have gained the necessary revenue through illicit means mainly because of the lack of legitimate income making opportunities. Groups that specialize in transnational fraud will be especially facilitated by privatization of the banking sector, discussed in the next

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<sup>138</sup> James Hardie-Bick, James Sheptycki, and Ali Wardak, “Introduction: Transnational and comparative criminology in a global perspective”, in James Sheptycki and Ali Wardak, eds., *Transnational and Comparative Criminology*. (London: Glasshouse Press, 2005): 11.

<sup>139</sup> Adedolapo Akinrele, *Privatisation and deregulation in Nigeria – A paper delivered at the workshop organised for the occasion of the visit of the Canadian Minister for International Trade and his delegation in Lagos*, (2002) [Online]. Available: [http://www.foakinrele.com/pdfs/privatisation/The%20wind\\_privatisation.pdf](http://www.foakinrele.com/pdfs/privatisation/The%20wind_privatisation.pdf) [2006, November 14]. 1.

chapter, and telecommunications, discussed below, which constitute the lifelines essential to successfully conducting their activities.

Deregulation of the telecommunications industry in Nigeria was aimed at increasing the country's teledensity or the availability of phone services which was achieved in 1992 by Decree No. 75 of the Nigerian Communications Commission (NCC). Since then, the NCC has witnessed exponential growth in this area as private entrepreneurs have been able to gain entrance into what was traditionally an impregnable sector. The NCC has since granted 200 private operating licenses many of which include internet service providers<sup>140</sup>. It is not inconceivable to believe that these deregulation efforts would benefit transnational organized crime groups and the availability of extensive telecommunications, especially access to the internet, is likely to have facilitated much advanced fee and transnational fraud activity originating in Nigeria. Furthermore, advanced fee fraud became an international issue during the 1990s which coincides with the deregulation of Nigeria's telecommunications industry. Advanced fee fraud is dependant on the availability of adequate communications structure both in the originating region and beyond and as this chapter has shown the implications of revolutions in communication associated with globalization are instrumental in understanding current rates of transnational fraud originating in Nigeria.

The next chapter will be a continuation of the effects of neo-liberal economic agendas on Nigeria and its repercussions on transnational fraud and the related financial crime of

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<sup>140</sup> Ibid, 3.

money laundering. The chapter will focus on the deregulation of the financial industries both from a global perspective and the unintended criminogenic implications for the deregulation of Nigeria's financial sector.

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## **4: Deregulation of International Financial Markets**

Today the international financial markets are powerful arenas facilitating various transactions ranging from bonds to foreign exchange in our globalized economy. However, with the advent of various reforms these markets have unintentionally become essential tools for organized crime groups to move their funds as necessary or conceal substantial illicit profits. On the state-level, how individual nations chose to regulate their financial sectors is of pivotal importance. If states are unable to adequately regulate these arenas they potentially may become failed or weak states which are susceptible to being overrun by organized crime groups. Deregulation of the international financial markets has opened up these markets to various actors and deregulation in individual states, often imposed through international banking institutions on developing nations, have had similar effects.

### **4.1 The international financial markets and the impact of deregulation on the financial sector**

Deregulation entails the lifting of restrictions and the minimizing of governmental or institutional involvement in a specific arena. Thus financial sector deregulation is the lifting of various governmental regulations in areas such as the exchange rate, interest rate, monetary policy as well as banking and capital market reforms. Common deregulation reforms typically include the revocation of laws concerned with limiting foreign exchange and foreign involvement in domestic markets inevitably linking the domestic financial sector to the international financial markets. The three major international financial markets are foreign exchange, eurocurrencies, and international

bonds. Capital markets are the securities market which includes the stock and bonds markets. These markets, in addition to various others, serve as arenas for sellers and buyers, or those who have capital and those seeking to acquire capital, to trade financial products<sup>141</sup>. Globalization has entailed two major changes to these international financial systems in the past fifteen years via financial sector deregulation which includes capital market liberalization. These changes include that of size and scope, with exponential growth in assets of various leading monetary institutions as well as unprecedented interconnectedness caused by open economies and financial sector deregulation which has allowed local banks, domestic stock markets, and financial companies to coalesce with various partners across the globe. Thus monitoring and regulating these new developments which now transcend local boundaries has become progressively more difficult and complex<sup>142</sup>. Furthermore the distinction between domestic financial markets and international markets has become increasingly indistinguishable and due to unprecedented rates of international investor involvement in domestic markets, many of these domestic markets have arguably become internationalized.

The imposition of neo-liberal economic policy on the financial sector of various developing nations by the major international financial institutions has been detrimental. These policies operate under the assumption that unaided market forces or profit motives will naturally drive the economy to efficiency, which is based on Adam Smith's invisible hand theory. However, full efficiency can only occur when certain conditions such as

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<sup>141</sup> Michael P Todaro, *Economics for a Developing World* (New York: Longman, 1992), 440-441. David Begg, Stanley Fisher, and Rudiger Dornbusch, *Economics Second Edition* (Maidenhead: McGraw-Hill, 1987), 11-15.

<sup>142</sup> Naim, 134-135.

property rights, established courts, competition, and the widespread availability of accurate information are all present. Developing countries typically lack these prerequisites and IMF imposed reforms in one area without timely and sufficient reforms in adjacent areas can aggravate economic situations<sup>143</sup>. Stiglitz refers to this as the problem of sequencing, of which capital market liberalization and privatization advocated in structural adjustment programmes represent ‘tragedies’ for developing countries<sup>144</sup>. Capital market liberalization, or the lifting of regulations that inhibit the flow of short-term capital, can make a developing country’s economy risky and volatile. Liberalization in this sector can be particularly detrimental in developing countries because the lower income earners generally suffer the most due to the lack of adequate safety nets in place. Capital market liberalization allows hot or speculative money to enter and exit a country’s economy almost instantaneously in order to take advantage of interest rate changes consequently resulting in instability which scares off long-term investment. However, the lack of controls on the flow of short-term capital benefits those looking for uncommitted and quick investments as liberalization would entail the lifting of minimum time requirements for investing. Minimal taxes on capital, lax regulations regarding disclosure of information, and few banking regulations on capital flows additionally make it easier and cheaper for capital to flow in and out of a country<sup>145</sup>. These developments would also provide flexibility for various actors, including transnational

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<sup>143</sup> This is similar to the theory of the Second Best. The theory refers to full efficiency as economic nirvana which is best served through laissez-faire policy. However, because economic nirvana or the fulfillment of all necessary conditions such as maximization of profit and utility is unattainable, government regulation in certain areas of the economy becomes necessary. See: Steven Suranovik, *The theory of the second best*, (2004) [Online]. Available: <http://internationalecon.com/v1.0/ch100/100c030.html> [2006, November 13].

<sup>144</sup> Stiglitz, *Globalization and its discontents*, 74-75.

<sup>145</sup> Joseph Stiglitz, *Capital market liberalization and exchange rate regimes: Risk without reward*, (2002) [Online]. Available: <http://ann.sagepub.com/cgi/reprint/579/1/219.pdf> [2006, November 14]. 219-229.



organized crime groups needing to either temporarily stow away proceeds of illegal activity or quickly launder illicit money, discussed in further detail later.

#### **4.2 Deregulation in Nigeria and implications of Structural Adjustment Programmes**

Deregulation of the financial sector in Nigeria has been a tumultuous process and can be traced to the mid 1980s which included the establishing of a two-tier foreign exchange market subsequently resulting in the establishment of bureaux de change in 1988. However, in 1994 bureaux de change were suspended and exchange controls reintroduced. This was reversed shortly after in 1995 with the introduction of autonomous foreign exchange markets. In terms of monetary policy, the interest rate followed a similar course with deregulation in 1987 and reinstituting of interest rate controls in 1991. These controls were lifted in 1992 but again reintroduced in 1994. In terms of the banking and capital market, 1987 marked the beginning of liberalization in this arena with deregulation of bank licensing, followed by the relaxation of bank portfolio restrictions in 1988. In 1991, however, there was an embargo on bank licensing and supervision and regulation of banks increased. The privatization of banks and the deregulation of the capital market began in 1992 and 1995 included capital flow liberalization<sup>146</sup>. Currently however, Nigerian elite appear to be instituting a 'de-privatization' process in the banking sector and Enueuga explains this is due to the belief among the political elite, unhappy to compete with various actors, that they have been

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<sup>146</sup> The International Development and Research Center, *Appendix: An outline of the financial sector reform in Nigeria*. (2004) [Online]. Available: [http://www.idrc.ca/en/ev-56359-201-1-DO\\_TOPIC.html](http://www.idrc.ca/en/ev-56359-201-1-DO_TOPIC.html) [2006, November 14].

denied their spoils. Thus plans to buy back government stakes in three of Nigeria's largest commercial banks are underway<sup>147</sup>.

In order to qualify for loans from the IMF and the World Bank, countries are often required to undertake certain economic actions in exchange for funds<sup>148</sup>. Known as Structural Adjustments Programmes (SAPs), these conditional contracts often impose detrimental neo-liberal economic requirements on developing nations, including financial sector deregulation. Nigeria, for example, beginning in 1986 has undergone massive transformations such as the modernization of its banking system and the blocking of excessive wage demands in order to curtail inflation. Furthermore, Abuja negotiated a debt-relief deal which was aimed at eliminating Nigeria's debt, estimated at \$37 billion. The deal required Nigeria to first repay \$12 billion of its debt to bilateral creditors which would then allow it to buy back the remaining debt stock at a discount in addition to being subject to more stringent IMF reviews<sup>149</sup>. Nigeria, as outlined in the previous chapter, has also undergone mass liberalization efforts, including capital market liberalization. Akinrele explains:

Perhaps the single most significant occurrence in the nation's liberalization process was the deregulation of its financial sector, particularly with the repeal in 1995 of the Exchange Control Act, the principal legislation then regulating foreign currency related transactions. The Act was replaced by the Foreign Exchange (Monitoring & Miscellaneous Provisions) Decree of 1995, which permits any individual or corporate body to invest in any Nigerian enterprise or security with foreign currency or capital imported into Nigeria through an

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<sup>147</sup> Chidozie Emenuga, *The outcome of financial sector reforms in West Africa*, (2002) [Online]. Available: [http://www.idrc.ca/en/ev-56356-201-1-DO\\_TOPIC.html](http://www.idrc.ca/en/ev-56356-201-1-DO_TOPIC.html) [2006, November 14].

<sup>148</sup> The World Bank, which aims at eradicating poverty, provides SAPs to developing countries but only upon approval of the IMF who typically attach various conditions on the loan. See: Stiglitz, *Globalization and its Discontents*, 13-14.

<sup>149</sup> CIA, *The world factbook-Nigeria*.

Authorised Dealer (a bank or other non-banking organization so licensed by the Central Bank of Nigeria) either through telegraphic transfer, cheques or other negotiable instrument<sup>150</sup>.

According to Emenuga, financial liberalization reforms outlined by SAPs for West African countries such as Nigeria and Ghana "...commenced in these countries on a background of macroeconomic imbalance and financial distress". They were aimed at increasing interest rates which would increase private savings and inevitably growth. However, rising interest rates in developing countries have little effect on savings<sup>151</sup>. The IMF and World Bank economic reforms ignore the greater social and political contexts and the narrow recommendations put forth by these institutions, including financial deregulation in the absence of certain prerequisites, serves to both jeopardize the larger social fabric and undo whatever stability exists in developing states. Stiglitz explains that "Financial market liberalization *unaccompanied by an appropriate regulatory structure* is an almost certain recipe for economic instability"<sup>152</sup>.

While many critics attribute the unfavorable economic conditions spawned by SAPs and other attempts at market-oriented reforms as responsible for creating environments in which illicit activity can flourish, other critics actually believe those very economic conditions are illicit. Croall criticizes the lending practices of many of the world's prominent financial institutions such as the World Bank, and believes their impact in many developing countries are clearly criminogenic. The increase in inequality and poverty during the 1990s in various parts of world, including Africa, can be attributed to

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<sup>150</sup> Akinrele, 2.

<sup>151</sup> Emenuga.

<sup>152</sup> Stiglitz, *Globalization and its Discontents*, 74-75.

SAPs "...mainly as conditions of debt financing from the IMF, World Bank, and foreign governments, and often to refinance unconscionable loans made to palpably corrupt and repressive regimes." Forced conditions ranging from free trade to privatization have achieved the opposite of promised economic growth and poverty appeasement. And "...the more consistent outcomes have been deeper poverty and inequality, increased unemployment, prolonged recessions, and denial of access for ordinary people to the most basic rights, such as food, housing, education, and safe drinking water."<sup>153</sup> Furthermore, the support of foreign industries which are typical conditions in loans from international financial institutions in these developing areas are often associated with widespread environmental damage and loss of income revenues to local populations, as is the case of the Ogoni people in the Niger Delta. Interestingly, Croall points out these humanitarian situations violate the UN Declaration on Human Rights which prohibits the deprivation of people from their subsistence, making the lending practices of such institutions violations of international law and potentially criminal<sup>154</sup>.

#### **4.3 Money laundering: a related financial crime**

Money laundering, like forms of transnational fraud especially advanced fee fraud, involves similar methods of operation and relies on the usage of financial institutions, especially banks, to successfully function. Money laundering is often described as a reflection of rates of organized crime activity and is typically the final step taken by organized crime groups to utilize their profits and pass them off as legitimately acquired funds. Once substantial profits from illicit activities have been made, criminals need a

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<sup>153</sup> Kelsey, 12.

<sup>154</sup> Croall, 233-34.

way to incorporate the profits into the formal economy without arousing suspicion. Thus money laundering, often believed to be the bread and butter of organized crime groups, is an essential feature of most illegal activity, including advanced fee fraud. Money laundering is traced back to 1932<sup>155</sup>, while some experts have even uncovered ancient monetary transactions resembling the laundering process<sup>156</sup>. Consequently, like many other transnational organized crimes money laundering is not a new phenomenon but globalization, through the deregulation of financial markets, has opened up the international banking system and made it simpler and quicker to layer and integrate substantial sums of money. According to the UNODC, an estimated \$500 billion to \$1 trillion of dirty money is believed to go through the laundry cycle annually. The IMF estimate is much higher; approximately \$1.8 trillion, or 5% of the global economy, is thought to be laundered through the international financial system yearly<sup>157</sup>. And when money laundering becomes easier and more efficient, the utilitarian value of engaging in illegal practices increases, arguably leading to an increase in various forms of crime.

Furthermore, because organized crime groups need to process and stow away large amounts of money, nations with nominal governmental regulations become the most attractive to launder money through. Consequently these nations, typically developing countries, become increasingly associated with shady business dealings and appear

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<sup>155</sup> Tive, 94.

<sup>156</sup> According to Morris-Cotterill, merchants in China would hide their wealth from rulers by converting their profits from trade into easily mobile assets which were cashed in various jurisdictions and subsequently invested into other businesses. These techniques, still used by contemporary money launderers, are more than 3000 years old. See: Nigel Morris-Cotterill, "Money Laundering" *Foreign Policy*, 124 (2001): 16-22 [Electronic]. Available from JSTOR at: <http://links.jstor.org/sici?sici=0015-7228%28200105%2F06%290%3A124%3C16%3AML%3E20CO%3B2-P> [2006, October 29]:16.

<sup>157</sup> D.H Walters, *Tracking money laundering via telecomm fraud*, (2002) [Online]. Available: [http://www.cfca.org/Documents/tracking\\_money\\_laundering.doc](http://www.cfca.org/Documents/tracking_money_laundering.doc) [2006, September 5].

unappealing to legitimate forms of business thus halting development and entrenching these states further into various forms of organized crime activity. This explains the current situation with Nigeria today where the lifting of foreign exchange controls as a part of the financial deregulation process has allowed substantial amounts of currency to both enter and leave the country much of which is illicitly laundered by unscrupulous financial institutions, government officials, and organized crime groups. Additionally, the widespread advanced fee fraud scams have given Nigeria such a bad reputation globally that legitimate business ventures and genuine local entrepreneurs will typically find it difficult to secure partners and funds abroad. International investors will likely be wary of doing business in Nigeria due to the very real risks of being scammed<sup>158</sup>. Unfortunately, this is detrimental to the already ailing Nigerian economy which could benefit greatly from responsible foreign investment. Thus the average Nigerian finds himself trapped in a difficult situation where illicit means often appear to be the only means of survival.

According to Naim, “money launders were probably among the quickest to adapt to financial liberalization and integration in the 1990s” and hastily discovered the dizzying array of new opportunities and avenues to launder money<sup>159</sup>. Placement, layering, and integration are the three steps in any money laundering transaction; the process begins with the placement of profits, whereby dirty money is inserted in various realms such as banks, financial institutions, or even gold and art. Layering, the second step, occurs when illegal profits are added to the legal profits of a legitimate business or cash-

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<sup>158</sup> Tive, 130.

<sup>159</sup> Naim, 137.

intensive front companies established specifically for laundering purposes in order to camouflage its origins. In West Africa the most popular front-companies include second-hand car dealerships, clothes boutiques, and diamond trading set-ups<sup>160</sup>. The internet in particular has resulted in various opportunities for organized crime groups to set up virtual front companies ranging from online auctions, gambling, and pornography sites. The last step is integration where the money is then used to purchase shares in legitimate companies successfully erasing the true origins of the illicit money. Recent advances in the financial markets have created a wide array of financial instruments which serves to enhance the mode of operation of transnational organized crime groups. Money launders can not only move money between banks regardless of geography effortlessly but can now choose various financial instruments to place, integrate, and even invest their illicit profits. Globalization, via economic liberalization including financial sector deregulation has made each stage of money laundering easier and increasingly efficient. For example, Naim explains the interconnectedness of illicit and licit money now possible due to the current state of international financial markets:

...swift movement of money is one of globalization's benefits. Money laundering, terrorist financing, tax evasion, and fraud take place amid foreign direct investment, portfolio investment, immigrant remittances, credit card transactions, e-commerce, and more. The trouble is that the interweaving of licit and illicit activity offers money washers camouflage within the global financial system on which we all depend<sup>161</sup>.

In the early days of money laundering, criminals had limited avenues in which to store their illicit funds and offshore bank accounts typically served as havens. However, offshore havens are no longer located on distant tropical shores but are now widely

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<sup>160</sup> UNODC, *Transnational Organized Crime in the West African region*, 29.

<sup>161</sup> Naim, 134.

available even in the most metropolitan areas. These havens offer their customers anonymity and confidentiality, low taxes, as well as lax supervision and regulation of deposits. Approximately 10% of 'hot money' in offshore havens is the proceeds of organized crime activity, while the overwhelming majority of funds are used for tax avoidance and evasion purposes<sup>162</sup>. And today, "...money laundering does not occur exclusively through the banking system" but "non-banking financial organizations" are also susceptible<sup>163</sup>. Furthermore, the globalization of the financial sector has allowed for effortless transfers of money from unregulated jurisdictions to regulated jurisdictions, much of which is conducted via internal branches of the large financial organizations<sup>164</sup>. Jurisdiction hopping, or the exploitation of different laws and regulations in varying areas, is one of the realities of globalization that transnational criminal groups utilize to facilitate illicit activity and can provide transnational criminals such as money launderers a certain degree of immunity from prosecution.

Interestingly, many countries may not pursue serious anti-money laundering legislation or may purposely prescribe to lax enforcement of such laws because enforcement may be contrary to the best interests of these governments. For example, taking substantial action to curtail money laundering can be expensive and time-consuming, it could potentially limit the competitiveness of the nations financial markets, encourage capital flight to less scrutinized areas, and in states with rampant corruption it may even be

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<sup>162</sup> Croall, 230.

<sup>163</sup> Tive, 99.

<sup>164</sup> Morris-Cotterill, 16.



adverse to the personal interests of the elite<sup>165</sup>. The last reason in particular appears to be applicable to Nigeria which has repeatedly seen its political elite squander national funds and with the help of shady financial institutions deposit the money in overseas bank accounts. General Ibrahim Babangida and General Sani Abacha among countless other Nigerian officials and government elite have all utilized the banking industry in particular to blatantly pocket state revenue for personal usage. However, the current Obasanjo administration appears to be committed to curtailing high-level corruption and has implemented various anti money laundering laws which would inhibit the transfer of significant sums of illicit money. As a result, in 2006 the Financial Action Task Force (FATF), a task force of 33 members seeking to reduce the international financial systems vulnerability to money laundering by proposing international standards for the financial industry, removed Nigeria from the Non-Cooperative Countries and Territories (NCCT) list. The FATF, which created the list in 1998, put Nigeria on the list in 2001 due to what was considered major shortcomings and weaknesses in its financial system due specifically to the inadequacies of its 1995 Money Laundering Law. Before this law was revised in 2002, predicate offenses for money laundering were limited to criminal activities involving drugs, many non-banking financial institutions were exempt from general anti-money laundering laws, and few customer identification requirements existed for banks. Further revisions and amendments were made in subsequent years which according to the FATF improved Nigeria's financial sector including stricter bank licensing requirements which reduced the number of commercial banks from 89 to 25. While Nigeria was removed from the NCCT list in 2006, the FATF still plans to monitor

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<sup>165</sup> Naim, 156.

progress in the country with a particular focus on investigating and prosecuting incidences of money laundering, protecting staff in related agencies from corruption, and judicial reforms facilitating prosecution of money laundering cases<sup>166</sup>.

#### **4.4 How has deregulation affected transnational fraud?**

Financial sector deregulation and capital market liberalization in Nigeria which began in the 1980s, concurrent with Nigeria's intense involvement with various forms of transnational organized crime, has opened up this previously regulated arena to various actors as well as revolutionized the rate at which financial capital can be moved around. The reduction of foreign exchange controls in Nigeria beginning the 1980s likely facilitated the over-invoicing phenomenon created by the oil boom, which brought in substantial sums of illicit money into the country much of which was redirected to the overseas bank accounts of government elite, and is widely regarded as a precursor to Nigerian advanced fee fraud. Furthermore, the opening up of various financial markets has theoretically allowed organized crime groups with profits to spare to act as lenders and intermediaries and groups in search of funds can become borrowers. These developments serve to facilitate the workings of transnational organized crime groups by allowing them unprecedented opportunities and avenues to conduct both large and small scale financial crimes. Nigeria, like many other developing countries, lacks adequate institutional controls on its financial sector. These shortfalls include unsophisticated banking regulations which are unable to track suspicious financial transactions,

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<sup>166</sup> Interestingly, only Myanmar remains on the NCCT list for 2006. See: Financial Action Task Force (FATF), *Annual review of non-cooperative countries and territories 2005-2006*, (2006) [Online]. Available: <http://www.fatf-gafi.org/dataoecd/0/0/37029619.pdf> [2006, November 14], 2, 6-7.

insufficiently enforced anti-money laundering laws as well as susceptibility to corruption. Organized crime groups are quick to capitalize on these shortcomings: Japan's recent financial crisis for example, was linked to the Yakuza organized crime group's penetration into the unregulated banking sector<sup>167</sup>.

Nigeria's experience with financial sector deregulation has been a messy and unsteady one which arguably serves to benefit transnational organized crime groups who may be able to take advantage of the confusion of laws and regulations. Emeneuga explains that increases in fraud were seen with banking liberalization which began in 1987 and marked the beginning of a 200% increase in financial institutions most of which were small and undercapitalized. These new financial institutions lacked the necessary expertise and availability of long-term management making the newly emergent banking sector inefficient, risky, and prone to fraud<sup>168</sup>. According to the UNODC, Nigeria additionally experienced a substantial increase in unlicensed finance houses during 1988 to 1991 which corresponds to the beginning of deregulation of the banking sector including the relaxations on licensing and portfolio regulations which were subsequently revoked. These unlicensed houses typically serve as ideal stages for money laundering and related financial crimes as do a handful of other established banks. The Bank of Credit and Commerce International (BCCI), for example, is believed to have partnered with corrupt

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<sup>167</sup> Allan Castle, *Transnational organized crime and international security*, (1997) [Online]. Available: <http://www.iir.ubc.ca/pdf/files/webwp19.pdf> [2006, November 14].

<sup>168</sup> Emeneuga.

elite in the West African region allowing these individuals to move substantial sums of illicit money abroad<sup>169</sup>.

Naim outlines four major financial reforms and adaptations which governments across the globe found 'fashionable' during the 1990s which had significant implications for organized crime groups involved in transferring and laundering money. The first was the discarding of exchange controls so that permission from a governmental authority to convert local currency into foreign currency and vice versa was no longer needed. Thus the international daily volume of exchanged currency mushroomed from \$590 billion per day in 1989 to approximately \$1.88 trillion per day in 2004. Additionally, the combining of European currencies into the euro was perceived as "...good news for money launderers, tax evaders, and the like, because it expands the playing field, adds flexibility, and multiplies the opportunities"<sup>170</sup>. Morris-Cotterill predicts that the euro will replace the dollar as the currency of choice for money launderers because its substantial domestic user base rivals that of the dollar in addition to the easy movement and recognition of the euro throughout the European Union<sup>171</sup>. Secondly, Naim cites the development of open local capital markets which were a natural result of the lifting of foreign exchange controls as a major advancement in the transnational organized crime realm. Foreign owned local banks, the ability for non-citizens to engage in local stock exchanges, and the courting of once-restricted foreign multinationals all served to increase the volume of money floating around which presented new opportunities for criminal groups to

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<sup>169</sup> UNODC, *Transnational organized crime in the West African region*, 29.

<sup>170</sup> Naim, 135.

<sup>171</sup> Morris-Cotterill, 20.

‘piggyback’ their illicit money into the licit economy and camouflage their illegitimate transactions. Thirdly, the increased competitiveness characteristic of a wide array of actors, ranging from countries to banks to wire transfer intermediaries spawned by deregulation, resulted in organized crime groups suddenly finding themselves with an unprecedented number of avenues and willing partners to launder their illicit proceeds<sup>172</sup>. Lastly and most obviously, the technology which drives the international financial markets was promptly embraced by both governments and banks allowing for instantaneous and cheaper transactions. This had numerous benefits particularly for groups dealing with transnational fraud because monetary transactions were now instantaneous and geographic location rendered irrelevant<sup>173</sup>.

In terms of the promotion and prevalence of white collar or economic crimes, financial deregulation is believed to be linked with the efficiency by which finance capital can be moved around, ultimately making many related crimes more viable<sup>174</sup>. And as Smith explains “Opportunities for licit wealth creation enabled by the growth of transnational commerce, the deregulation of international markets and the construction of continental trading blocs...also establish abundant opportunities for illicit transnational commerce...”<sup>175</sup>. Thus advanced fee fraud, which entails the transfer of substantial sums of money from one country to another, would be greatly impacted when these monetary transactions became easier. Furthermore, the usage of banks and financial institutions as

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<sup>172</sup> Consider for example, Carousal fraud of VAT in the UK.

<sup>173</sup> Naim, 134-137.

<sup>174</sup> Croall, 229.

<sup>175</sup> Edwards, 218.

tools for illicit activity serves to threaten their integrity. The Federation of American Scientists explains:

The use of banks and financial institutions to launder money and for other illicit financial transactions undermines their credibility. Poorly capitalized banks established by criminal organizations weaken the banking system and may increase the likelihood of a major domestic financial crisis. A weakened banking system increases the danger of domestic liquidity crises and can magnify the impact of foreign financial shocks on the economy. These developments can undermine confidence in a country's financial system, leading to extensive capital flight and depriving the country of investment resources. If the financial system is closely integrated into global financial markets, the risk of contagion--the crisis spreading to other countries-- increases<sup>176</sup>.

Nigerian banks and other financial institutions offering international wiring services located in the West African region have repeatedly been used for illegitimate purposes not only by transnational criminals but by high-ranking government officials. Because of the widespread prevalence of corruption in the area, there is a significant demand for unscrupulous financial institutions or employees in legitimate institutions willing to facilitate illegal transactions. Unless this demand is curtailed, organized crime groups and other individuals will continue to weaken and exploit the banking sector.

Both transnational fraud and money laundering rely on similar methods of operation and thrive on banks and other financial institutions as intermediaries facilitating dirty money transactions. Advances in these arenas, especially in terms of deregulation which results in lax enforcement of rules and various openings for private actors, provide a beneficial environment for the workings of organized crime groups. Globalization, which inevitably entails the adoption of technological advancements linking together previously unlinked areas and deregulation in historically regulated areas, allows transnational

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<sup>176</sup> Federation of American Scientists.

organized crime groups to conduct their activities with unprecedented ease and efficiency.

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## 5: Understanding the Transnational Organized Crime Threat

Researchers from the Australian Institute of Criminology humorously lament the fate of victims of advanced fee fraud: “In the end, one can only wonder at the greed and stupidity of people prepared to part with money in response to an unsolicited letter, offering them millions of dollars, from a stranger on the other side of the world”<sup>177</sup>. However, advanced fee fraud and its related variant scams are more than just profitable cons; these scams serve as impediments to stability in the areas in which they originate and further represent examples of the ability of transnational organized criminals to evolve and exploit the phenomenon of globalization. Additionally, advanced fee fraud often serves as a gateway crime and illicit funds made from these scams are used to perpetrate other illegal criminal activities. On the other hand, to perpetrators and sympathizers advanced fee fraud against developed nations represent retaliation for colonialism and the slave trade and thus are justified in light of righting historical wrongs. However, it is ordinary Nigerian citizens struggling to earn a sufficient living who are adversely affected by the activities of these Nigerian fraudsters in addition to the implications of Nigeria being seen in the global realm as a defunct and criminal state.

### 5.1 Generalizations regarding transnational crime for Nigeria

As explored earlier, Nigeria is particularly susceptible to incidences of advanced fee fraud for reasons relating to population demographics, institutional vulnerabilities, and the repercussions of globalization, summarized below:

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<sup>177</sup> Russell G. Smith, Michael N. Holmes, and Philip Kaufmann, *Australian Institute of Criminology: Trends and issues in crime and justice: Nigerian advanced fee fraud*, (1999) [Online]. Available: <http://www.aic.gov.au/publications/tandi/ti121.pdf> [2006, November 14].



*Demographics ripe for crime*

Transnational organized crime, including advanced fee fraud, is so pervasive within Nigeria because of the prevailing socio-political and economic conditions within the state. A quick history of post-colonial Nigeria uncovers civil wars, military coups, ethnic and religious tensions, corrupt leadership, and contested claims to natural resources all of which aggravate instability. Lack of sufficient income earning opportunities and widespread poverty coupled with blatant examples of official looting all facilitate an acceptance of illicit activity as a means of generating income. Demographically speaking, the availability of unemployed yet skilled workers in addition to unskilled workers allows for the perpetration of technical and white-collar criminal activity, like advanced fee fraud, in addition to providing established organized crime groups with a sufficient pool of potential recruits. Nigeria, being the most populous African country and an undisputable regional hegemon, has also instigated crime throughout the West African region and is currently seen as the global leader for the perpetration of advanced fee fraud.

*Institutional vulnerabilities*

Historically, various institutions in Nigeria have been susceptible to corruption and willing to coalesce in clearly illicit activities. Banks and other financial institutions are among the main culprits who have laundered staggering amounts of money on behalf of corrupt rulers, as are government agencies and civil servants such as those who would rather pocket a levy on narcotics passing through Nigeria's ports instead of prosecuting traffickers. During the oil boom of the 1970s and 1980s, civil servants in Nigeria's

government adopted the practice of over-invoicing imported goods resulting in substantial sums of money entering the state and subsequently the pockets of unscrupulous employees. Official involvement in the illicit practice of oil bunkering is also suspected and an estimated 300,000 barrels of oil are stolen on a daily basis from the Niger delta, equivalent to 35% of Nigeria's oil exports, and subsequently sold for considerable profits on the black market<sup>178</sup>. Furthermore, certain changes in Nigeria's economic sector with the advent of globalization have allowed criminal groups to play influential roles as well as open up various avenues which have indirectly facilitated illicit transnational activity. Premature privatization and deregulation initiatives as part of larger liberalization reforms have allowed transnational organized crime groups to take full advantage of less regulated arenas especially in terms of banking regulations and foreign exchange controls. Criminal groups find it easier to establish front-companies, launder money globally, get involved in essential legitimate services, and reduced trade barriers allow for the expeditious movement of both illicitly trafficked people and commodities.

#### *A new globalized terrain*

Ancient and well-established transnational trade and ethnic networks in Nigeria and the greater West African region were well positioned to benefit from the advent of globalization. Criminal groups found themselves on vast frontiers seeping with opportunity which enhanced the logistical operations of illicit activity, the ability to shop around for favorable jurisdictions, and technological advancements such as the internet

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<sup>178</sup> UNODC, *Transnational Organized Crime in the West African Region*, 8, 13.

Gail Wannenburg, "Organised Crime in West Africa," *African Security Review*, 14, 4 (2005): 10.

allowed for efficient communication as well as the abandoning of traditional tools in favor of wireless ones. Nigerian advanced fee fraudsters, for example, switched from fax and post to email in the distribution of their 419 propositions. New realms of organized crime activity were suddenly possible and cyber-crime and organized crime developed a mutually sustaining relationship. Advances in global financial systems, specifically interconnectedness and increased competition, provided organized crime groups countless avenues to launder and stow away illicit profits. Transnational organized crime groups even transformed their structure and began to represent business enterprises as opposed to the traditional hierarchal models in order to maximize profits and productivity. These new decentralized networks coalesced with related criminal networks sharing both information and resources on unprecedented scales. Diversifying of criminal activities among these groups is now more common than specialization as organized crime networks move into market niches as they become available; for example advanced fee fraud is often a gateway crime which provides Nigerian fraudsters funds for involvement in other profitable illicit activities. Overall, globalization presented transnational organized crime groups with various tangible benefits which facilitated their methods of operation.

## **5.2 Conditions exacerbating transnational organized crime in West Africa**

In today's globalized world, nation-states are no longer immune or unaffected by situations in surrounding states. Therefore, the following is an analysis of various conditions throughout West Africa which serve to facilitate and promote the incidences of various transnational organized crimes in Nigeria and beyond.

*Instability in the greater West African region*

Nigeria's regional neighbors have no less of a tumultuous history and West Africa has been home to some of the most shocking atrocities of recent times. Civil wars in Liberia and Sierra Leone involved the systematic use of children as murderous rampaging soldiers, citizens in many West African countries lived under the arbitrary rule of illegitimate tyrants and threats of military coups, and all the countries in the region<sup>179</sup> struggled to come to terms with their colonial past and disadvantageous positions in the global political economy. Wars and armed conflict are particularly detrimental because according to the UNODC, in many states in Africa "...the existence of armed conflict has encouraged certain forms of organized crime to flourish under the guise of political struggle"<sup>180</sup> in addition to creating widespread misery and desperation among the local population. Today, a staggering proportion of the West African population, estimated at 55%, currently live on less than \$1 a day<sup>181</sup>. This poverty is exacerbated by severe inequality and the looting of government revenue by kleptocratic rulers, forcing many of the citizens in the region with bleak futures to explore other income making avenues. Throughout the region's history, unfavorable economic conditions forced many of the West African states to seek funds from international institutions, namely the IMF and the World Bank, in order to perform basic state functions. The international institutions offered these ailing economies SAPs on unequal terms and these programs, focused on maximizing agricultural capacity to the detriment of welfare services, were unwillingly incorporated into local economies. Thus declines in education, health, and state

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<sup>179</sup> With the exception of Liberia, which was never under colonial rule.

<sup>180</sup> UNODC. *Transnational Organized Crime in the West African Region*, 3.

<sup>181</sup> Wannenburg, 8.

employment were widespread due to cuts in state spending<sup>182</sup> causing additional dissatisfaction and hardship among the average citizens in the region. Furthermore, the weaknesses and failures of the criminal justice systems in many of the states in the region served to heighten the system's sense of illegitimacy among the local populations. During the civil wars in Liberia and Sierra Leone for example, many of the rebel groups destroyed various aspects of the criminal justice system including police stations and courts, perhaps to signify the eroding of the state authority. Subsequent rebuilding efforts have been slow and characterized by corruption causing the establishment of vigilante groups and transnational political party militias which only serve to intensify insecurity and instability throughout the region<sup>183</sup>. Today in every country in West Africa, law enforcement agencies, related state services, and the judiciary are believed to be substandard and inadequate, which in turn has serious implications for the perpetration of illicit activity throughout the region<sup>184</sup>.

#### *West African involvement in transnational organized crime activity*

Though Nigeria is widely perceived as the regional hegemon in terms of illicit transnational criminal activity, many other neighboring states in West Africa also boast flourishing trades in various illicit activities. West Africa's permeable land borders, extensive and unpatrolled sea ports coupled with institutional corruption at all levels of the government provide a favorable climate for the perpetration of various illicit activities. Illegal diamond trading, for example, typically begins in Sierra Leone and is trafficked through Liberia and Guinea and on to its target markets. Ghana, Liberia, and

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<sup>182</sup> UNODC, *Transnational Organized Crime in the West African Region*, 3.

<sup>183</sup> Wannenburg, 9.

<sup>184</sup> UNODC, *Transnational Organized Crime in the West African Region*, 4.

Cote d'Ivoire all provide illicitly mined gold to markets around the world. Liberian rebel groups extract rubber and are involved in the internationally banned logging trade while Equatorial Guinea is involved in extensive timber and ivory trafficking. In terms of drug trafficking, Liberia, Senegal, and Cote d'Ivoire finance arms in exchange for domestically produced cannabis while Ghana is also a major producer of the illicit crop. For heroine and cocaine trafficking, West African criminal networks use local ports to traffic the drugs in collusion with international syndicates. Nigeria has been replaced by neighboring ports as a transit route of choice for traffickers due to increased patrols and cancellation of flights from the country. In terms of human trafficking, West Africa's turbulent history provides vast pools of vulnerable citizens, many of whom have been internally displaced and are desperately seeking refuge elsewhere. Human trafficking in the region is endemic and virtually every West African state is involved either as a country of origin, transit, or destination. Estimates state approximately 200,000-300,000 children are trafficked within West Africa each year and victims transported outside the region typically earn traffickers anywhere between \$10,000-\$50,000 per person. Firearms trafficking is also in great demand throughout West Africa resulting in the perpetuation of various inter-state and intra-state conflicts. Nigeria, Senegal, Guinea, and Ghana are all thought to be manufacturers of firearms which are sold throughout the region and these arms subsequently circulate elsewhere often finding themselves into the hands of rebel groups and criminal gangs. Fraudulent scams such as advanced fee fraud which initially originated in Nigeria have undergone a regionalization process and now these scams are finding favorable ground in Gambia, Ghana, Senegal, Sierra Leone, and Togo<sup>185</sup>. Money laundering has also flourished in the region due to the presence of

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<sup>185</sup> Wannenburg, 10-14.

unlicensed finance houses and favorable mediums in the laundering process which include previously owned car dealerships, which requires minimal documentation, in addition to the diamond trade<sup>186</sup>. Thus, West Africa is a region which is deeply entrenched in domestic and intra-regional criminal activity which, in the climate of globalization, inevitably spills over into other areas in the search of suitable markets and in the spirit of supply and demand. Additionally, many of these illicit activities finance rebel movements equipped with political agendas which in turn challenge established governmental authority and breed instability. Thus the vicious cycle of instability giving rise to criminal activity which subsequently aggravates instability is perpetuated.

#### *Difficulties in ascertaining reliable crime statistics*

Reliable crime statistics for the West African region are hard to come by and statistics distinguishing routine criminal activity from organized crimes are rarely recorded by police agencies or other law enforcement administrations from within the region. Thus various other sources such as NGOs, foreign governments, think-thanks, and interest groups are typically relied on to paint a picture of the rates of organized crime in West Africa. However, these crime statistics are to be approached with caution and typical obstacles to sufficiently and accurately analyzing the numbers include the 'continuity problem' and the 'congruity problem'. The former refers to how crime definitions and thus measurement techniques change over time while the latter refers to the absence of standardized reporting formats which is especially compounded in cross-national comparisons<sup>187</sup>. Both these discrepancies serve to complicate statistical research in

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<sup>186</sup> UNODC, *Transnational Organized Crime in the West African Region*, 29.

<sup>187</sup> Hardie-Bick, Sheptycki, and Wardak, 4.

various sub-fields of criminology. Furthermore, the politicization of crime statistics, where a government may exaggerate the extent of a crime to justify a punitive policy or underestimate a crime in order to suggest their competence in social control issues in addition to countless other scenarios, is another obstacle to sound criminological research. In the case of Nigerian organized crime, many researchers contend that the United States typically overestimates the extent of various transnational criminal activities originating from the country. For example, estimates of advanced fee fraud profits are typically higher for American organizations in comparison to others<sup>188</sup>. The distortions and lack of consensus regarding rates of global illicit activity serves as an exasperating condition for transnational organized crime because law enforcement and other personnel charged with curtailing such activity do not have an accurate picture of the threat. Without knowing the exact nature of the threat, reactions will either be minimal and inefficient or overextended and wasteful.

### **5.3 Transnational organized crime groups as threats to the nation-state**

Globalization has enabled organized crime groups to morph into influential, resource-rich networks and develop a transnational character which has consequently allowed global criminal groups to enter realms typically restricted to powerful nation-states. For example, transnational organized crime groups have become increasingly involved in conflict, as have other non-actors, especially within the African context. Areas characterized by conflict, for instance the oil rich Niger Delta, often include a wide range of actors such as criminal gangs, large multi-national corporations, government officials susceptible to corruption, and a vulnerable disenfranchised local population claimed to be

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<sup>188</sup> Bayart, Ellis, and Hibou, 29.



represented by prominent NGOs and humanitarian groups. The promotion of non-state entities and the involvement of such a wide array of actors can be interpreted as an affront to state sovereignty especially in terms of transnational organized crime groups whose agendas are typically incompatible with legitimate governments. Therefore, transnational organized crime networks represent threats to the nation state. In other situations such as Liberia, Angola, and Sierra Leone, governments in collusion with criminal groups share similar agendas or criminal groups are disguised as political parties or revolutionary freedom fighters, such as UNITA in Angola or Sierra Leone's RUF. These groups are involved in illicit trafficking of diamonds and mining of precious minerals which provides significant revenue streams used to promote a political agenda. Furthermore it is often believed that "Governments in less-developed countries that are already weak will be further weakened as the illicit networks operating inside their territory amass large fortunes"<sup>189</sup> and accumulate the resources needed to gain political and economic clout. Thus the overlapping of state and non-state actors in arenas traditionally dominated by the nation-state is a byproduct of the globalization process and in the African context has severe repercussions; the most disturbing being the entrance of transnational organized crime groups as powerful contenders in the international political economy.

Transnational organized crime is typically viewed as the result on new criminal opportunities many of which were created in the climate of globalization<sup>190</sup>. This new

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<sup>189</sup> Naim, 263.

<sup>190</sup> Vincenzo Ruggiero, "Global markets and crime", in Margaret E. Beare, ed., *Critical Reflections on Transnational Organized Crime, Money Laundering, and Corruption*. (Toronto: University of Toronto Press, 2003), 180.

climate, spawned in the 1980s corresponded with the increasing prevalence of transnational organized crime in certain areas of the world, which subsequently experienced a global surge in the 1990s. According to experts, the upward trend in incidents of global crime is likely to continue into the foreseeable future<sup>191</sup>. Especially as globalization concurrently and paradoxically intensifies both disparities and economic opportunities around the world, making the rich richer and poor poorer, transnational criminal groups will continue to exploit and flourish under these conditions. In order to counter this mounting threat, however, ethical leadership is of paramount importance in regions whose governments lack legitimacy in the eyes of the people, and for the rest of world, responsible and equitable management of the implications of globalization is essential.

#### **5.4 The pivotal role of ethical leadership as a criminal counter-force**

As Chinua Achebe noted two decades back:

The trouble with Nigeria is simply and squarely a failure of leadership. There is nothing basically wrong with the Nigerian land or climate or water or air or anything else. The Nigerian problem is the unwillingness or inability of its leaders to rise to the responsibility, to the challenge of personal example which are the hallmarks of true leadership<sup>192</sup>.

This scathing analysis of leadership is not only applicable to Nigeria but to many other nations whose unscrupulous and corrupt leaders shoulder a great deal of responsibility for the abysmal state of their nation and people. It is because of corruption and a widespread environment of lawlessness that transnational organized crime has successfully gained a

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<sup>191</sup> Naim, 263.

<sup>192</sup> Achebe, 1.

stronghold in these states<sup>193</sup>. General Sani Abacha, for instance, turned a blind eye to the prosecution of white collar crime and even provided impunity to organized criminal gangs many of whom subsequently provided election funds and voters<sup>194</sup>. When heads of state show interest in illicit means for generating income and promoting agendas, normal citizens, especially when economic opportunities are scarce or inadequate, may also turn to illicit means in order to ensure a minimal standard of living.

Historically, West Africa has been a counter-example of ethical leadership and has instead provided countless instances of corrupt, unscrupulous, and greedy leaders. Legitimate governments who strongly reject illegitimate means and activities provide exemplars for their citizenry and promotion of these governments is crucial in overcoming criminal networks. Take for example Palermo, Sicily which was once deeply entrenched mafia terrain but has since been purged and was recently the site of the ratification of the UN Convention Against Transnational Organized Crime which for the first time outlines international standards for various illicit activities in addition to providing guidelines for law enforcement agencies<sup>195</sup>. Thus, transnational organized crime can be curtailed if leaders charged with ensuring the wellbeing of their citizenry refuse to lower themselves to involvement in illicit activity and if law enforcement in these countries are trained and equipped with the necessary tools to fight and investigate as well as ward off threats of corruption. While it is unlikely that all illicit activity will

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<sup>193</sup> Naim explains that transnational organized crime is a political phenomenon and that "Illicit traders cannot prosper without help from governments or accomplices in key public offices...the enormous incentives associated with the profits involved in these trades drive this criminalization of politics and public service." See: Naim, 240.

<sup>194</sup> Alex Schmid, *Troubled lands where criminals are king*, (2001) [Online]. Available: [http://www.unesco.org/courier/2001\\_02/uk/doss8.htm](http://www.unesco.org/courier/2001_02/uk/doss8.htm) [2006, November 14].

<sup>195</sup> Naim, 187; Schmid.

ever cease, tangible steps can be taken to reduce the profitability and ease of illicit activity and increase the threat of prosecution.

And like much conflict today, transnational organized crime develops roots in areas of economic uncertainty and disparity. Criminal groups can step in where weak governments fail in terms of the social sector by providing desperately needed goods and services and even employment opportunities to the local population. Once successful at home, these groups will likely have gained the expertise and desire to supply other more profitable markets. It is subsequently the opportunities created by globalization, coupled with favorable domestic factors, as exemplified by Nigeria, which have allowed organized crime groups to take on a transnational character and expand into the international political economy

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